

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR HERITAGE HILLS ALPINE,  
A PLANNED RESIDENTIAL DEVELOPMENT

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (hereinafter referred to as the "Declaration"), is made as of this 14<sup>th</sup> day of August, 2006, by HERITAGE HILLS, INC., a Utah Corporation, (the "Declarant"), with reference to the following facts:

WHEREAS, Declarant is the owner of record of that certain parcel of real property known as Heritage Hills Alpine, Plat "A" (the "Subdivision"), whose subdivision Maps were recorded on **August 4, 2006**, as Entry No. **99456:2006**, and Map No. **11801**, of the official records in the Office of the County Recorder for Utah County, State of Utah. Heritage Hills Alpine, Plat "A" is located in Alpine City, Utah County, State of Utah, and more particularly described on the attached Exhibit "A";

WHEREAS, all lots in the Subdivision are a part of and are governed by this Declaration;

WHEREAS, the Declarant desires to develop residential subdivisions of distinctive and individual character for the benefit of all owners within the Subdivision, and intends to provide for the preservation of such character;

WHEREAS, the Declarant, or affiliate of Declarant has previously facilitated, or may facilitate, the development and recordation of additional subdivision Maps, which shall commonly be identified as the various phases of Heritage Hills Alpine, and which are developed on property which is contiguous to the Subdivision, or to prior or future phases of the Subdivisions; and

WHEREAS, the Declarant intends to sell the individual Lots which comprise the Property described above and the Declarant desires to subject each respective Lot to a general plan of improvement which will include certain restrictions, conditions, covenants, and agreements, as hereinafter set forth.

NOW, THEREFORE, the Declarant declares that the Property shall be held, sold, conveyed, leased, occupied, resided upon and hypothecated subject to the following covenants, conditions and restrictions; which covenants, conditions and restrictions shall run with the land, are established for the purpose of protecting and preserving the value of each and every part of the Property, and which shall be binding upon each and every party which shall at any time have any right, title or interest in or to the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I  
DEFINITIONS

"City" shall mean Alpine City.

"Committee" shall mean the Architectural Control Committee.

“County” shall mean Utah County.

“Declarant” shall mean Heritage Hills, Inc., a Utah Corporation, and their successor(s) and/or assigns(s)

“Family” shall mean a group of natural persons related to each other by blood or legally related to each other by marriage or adoption.

“Improvement” shall mean any structure, Residence, building, barn, storage, shed, garage, Landscaping, accessory building, fence, wall, nonliving or living screen, or other structure of Landscaping, or other meaningful addition or alteration constructed or added to a Lot.

“Landscaping” shall mean lawn, shrubs, flowers, trees and natural foliage located or placed upon a Lot.

“Lot” shall mean any individual parcel shown upon the Maps of the Subdivision, which may be legally conveyed by reference only to the number of such Lot designated on the Map.

“Lots” shall mean more than one of the Lots in Heritage Hills Alpine.

“Maps” shall mean the official subdivision plat maps recorded as referred to above, which have become part of the official record in the Office of the Utah County Recorder, State of Utah, as the same may be amended from time to time.

“Owner” shall mean the recorded owner of a fee simple title to any Lot, which is a part of the Subdivision. In the event that more than one party shall be established as the record Owners of a Lot, then for all purposes under this Declaration, all such parties shall be required to act jointly as the Owner of such Lot.

“Open Space” shall mean all areas designated on the Maps as “Public Open Space Dedicated to Alpine City,” which areas are dedicated for the use, benefit, and enjoyment of all Owners. These shall ultimately be maintained by the City as permanent open spaces and are to be accessible to the general public.

“Property” shall mean all the real property described above, consisting of all Lots of the Subdivision, and as more particularly described on Exhibit “A.”

“Public View” shall mean as viewed generally from the public streets.

“Residence” shall mean a single building designed and constructed for residential occupancy, to be occupied by a Family.

“Street” shall mean all streets dedicated to the City.

“Subdivision” shall mean the parcel of real property known as Heritage Hills as referred to previously in the recitals of this document.

**Purpose of Declaration.** The purpose of this Declaration is to insure the use of the Property for attractive residential purposes, to prevent nuisances, to prevent the impairment of the attractiveness of the Property, and to maintain the desired tone of the Subdivision, and thereby to secure to each Owner the full benefit, enjoyment and value of their home, with no greater restriction on the free and undisturbed use of their Lot than is necessary to insure the same advantages to other Owners.

## ARTICLE II VOTING RIGHTS OF OWNERS

- 2.1 The Owners shall have the right to vote for members of the Committee, in accordance with the provisions of Article III, and to vote to amend modify or replace this Declaration.
- 2.2 Whenever the Owners vote on issues, including the election of the Committee members, as described above, each Owner shall be entitled to one vote per Lot that the Owner owns.
- 2.3 The Committee shall be responsible for notifying all Owners if an event transpires that requires a vote of the Owners. Additionally, the Committee shall be responsible for conducting the voting process and ensuring that each Owner has the opportunity to cast its vote.

## ARTICLE III ARCHITECTURAL CONTROL

- 3.1 The Architectural Control Committee shall originally be composed of Vernon Kay Van Buren, Walter Downing Akin, III, and Rick Kinateder. Each member of the Committee may represent and act on behalf of the Committee. In the event of death or resignation of any of the original members of the Committee, the remaining members of the Committee shall have full authority to select a successor. Except for the original members appointed to the Committee, all members of the Committee must be residents of the subdivision at the time of their appointment. Should any member move his or her residence outside of the subdivision he/she shall be disqualified to serve and the Committee shall declare a vacancy. Neither members of the Committee, nor a designated representative shall be entitled to any compensation for the services performed pursuant to this Declaration.
- 3.2 Upon the resignation or death of the last of the original members of the Committee, as identified in Section 3.1 above, the Owners shall elect by majority vote a replacement member for the Committee. The Committee shall always have three (3) members. Once there are no longer any original members on the Committee, the Owners shall elect a new Committee member each year and the most senior Committee member, in terms of serving on the Committee, shall retire from the Committee. It is anticipated that each elected Committee member will serve a term of five (5) years. If no other Owner is willing to be elected to the Committee, then a retiring member may be elected to serve an additional five (5) year term.

- 3.3 Any plans and specifications submitted to the Committee shall be approved or disapproved by the Committee in writing within thirty (30) days after submission.
- 3.4 To maintain a degree of protection of the investment, which homeowners in this area may make, homes of superior design are requisite. The Committee's approval or disapproval as required in this Declaration shall be in writing. Before the review process can commence, the Committee must receive from the Owner the following:

**Concept-Preliminary Drawings Approval:** (if possible, plans should be submitted as soon as a Real Estate Purchase Contract is fully executed for a Lot or as reasonably soon thereafter as possible).

- A. A plan of the residence including floor plan and all side elevations.
- B. Exterior colors and materials.
- C. Site plan showing building set backs, grade heights, foundation heights, curb elevations

**Final Plan Approval:**

- A. A set of formal plans from a licensed architect or by designers of outstanding ability whose previous work may be reviewed as part of the approval process.
- B. A detailed site plan showing building set backs, foundation heights, final grades, existing grades and the contours of the Lot that shall address soils, seismic conditions, re-vegetation, grading of the site, retaining walls and/or retaining structures, and cuts and fills.
- C. All specifications, including but not limited to: exterior color samples and materials that will be used and where they are to be used on the dwelling, and any other information regarding the specifications that the Committee requests.
- D. A detailed landscape plan, which must show, a detailed grading, grade elevations and drainage plans. Each lot is required to retain its water runoff on site or to the street.
- E. A scale model of the lot and all structures is required showing where the dwelling and any outbuildings will be placed within the Lot boundary, the contours of the Lot with the final grade and landscaping design. Models will be built by Kinateder and Associates and paid for by the buyer.
- F. An architectural review fee of \$250 made payable to the Declarant.

Once approved by the Committee, no changes or deviations in or from the plans and specifications shall be made without the prior written approval of the Committee. Subsequent to receiving approval of the Committee and prior to the commencement of

construction, each Owner will be responsible for obtaining a building permit from Alpine City.

Deviations from the standards set forth in this Declaration will be allowed only upon written approval by the Committee for good cause shown.

- 3.5 No fence, wall, Residence, accessory or addition to a Residence, or landscaping or other improvement of a Lot shall be constructed or performed, nor shall any alternation of any structure on any Lot, including a change in exterior color, be made, unless complete plans and specifications showing the nature, color, kind, shape, height, materials and location of the same shall first be submitted to and approved by the Committee. No Owner shall submit any building plans to the City prior to first receiving approval from the Committee. Alpine City will not accept any plan for review for issuance of permit without a signed "Final Plan Approval" letter from the Committee.
- 3.6 Before granting any approval of plans and specifications, the Committee shall determine to its reasonable satisfaction that such plans and specifications (a) conform to all architectural standards contained in this Declaration and all further architectural standards promulgated from time to time by the Committee and (b) provide for a structure, alteration, landscaping or other improvements in harmony as to external design and location with surrounding structures and topography.
- 3.7 If plans and specifications submitted to the Committee are disapproved because such plans and specifications are not in conformity with applicable architectural standards, the party or parties making such submission may submit a request for variance to the Committee. The Committee shall approve or disapprove the request for variance in writing. If the Committee fails to approve or disapprove a request for variance within thirty days (30) after such request is submitted to the Committee, such request shall be deemed to be denied.
- 3.8 The approval by the Committee of any plans and specifications for any work done or proposed shall not constitute a waiver of any right of the Committee to disapprove any similar plans and specifications.
- 3.9 All architectural review fees shall be collected by the Declarant and shall be used to cover actual costs incurred in reviewing the documents set forth above. Any remaining amounts shall be set aside in a separate account for future use by the Committee for costs the Committee may incur in enforcing the terms of this Declaration.
- 3.10 The Committee shall meet as the circumstances may require. After the initial review of the documents set forth above for each Residence built in the Subdivision, the Committee's primary role shall be to ensure the terms and conditions of this Declaration are followed by the Owners.
- 3.11 Neither the Committee, nor any member thereof acting in good faith shall be liable to any Owner for any damage, loss, or prejudice suffered or claimed on account of (a) the approval or rejection of, or the failure to approve or reject, any plans, drawings and specifications, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, (c) the development or manner of

development of any of the Property, (d) any engineering or other defect in approved plans and specifications, or (e) the enforcement of any provisions contained within this Declaration. Furthermore, the Lot Owners agree to indemnify, defend, hold harmless, and reimburse any and all members of the Committee, whether currently serving or those who have previously served, from and against all liabilities, judgments, settlements, losses, damages, consequential damages, costs, and expenses, including, without limitation, attorneys' fees, court costs, arbitration costs, costs of investigation, settlement costs, and other litigation expenses, of every kind and nature, relating to any and all claims, actions, disputes, suits, proceedings, demands, inquiries and investigations asserted against any member of the Committee (either past or present) by any third party arising out of or in any way relating to the individual's work as a member of the Committee, as set forth herein.

#### ARTICLE IV RESIDENTIAL AREA COVENANTS

- 4.1 No Lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached single family dwelling not to exceed two stories in height, and private garages for not less than three (3) vehicles. All construction shall be comprised of new materials except that used brick may be used with prior written approval of the Committee.
- 4.2 Because of the nature and location of the subdivision, there is a potential of fire danger. It is highly recommended that the Buyer consider designing fire control systems and exterior finishes in order to protect their home in case of hillside fires.
- 4.3 A custom home designed for each specific lot, which takes advantage of the views, and fits properly to the grade/contours of the Lot is of utmost importance.
- 4.4 Every single family dwelling shall have a minimum area on the main floor of 2,100 sq. ft. for a single story ( Rambler), and 1,700 sq. ft. on the main floor and 850 sq. ft. on the second story as minimum areas for a two story home.
- 4.5 All exterior wall surfaces shall be either stone or brick with a minimal amount of stucco added as accent. A stucco wainscot is not considered accent. Hardi plank and wood siding may be considered, but must be approved by the Committee.
- The foundation shall be designed as to minimize the exposed concrete. Concrete or concrete masonry units used as foundations shall be plastered.
- 4.6 It is recommended that the Buyer contracts with a licensed soils engineer test the soil and to design their foundation in accordance with the soil conditions and slopes that exist on their lot.
- 4.7 Roof pitches shall be no less than a 6/12 pitch. Roof materials permitted are: Metals of copper, zinc, or terne or steel, fire retardant wood shingles or medium shakes with no more than ten (10) inches to the weather, 40 year Class A rating architectural asphalt shingles weighing more than 300 pounds per 100 sq. ft., cement base tile or slate. Each

vent, stack, gutter, flashing, snow diverter, furnace flue, trim and metal work shall match the color of the surface to which it is attached or from which it projects. Vents, stacks, flues and the like must be located out of the Public View, and combined to minimize roof penetrations.

- 4.8 Windows must be constructed of either wood or clad wood. All windows must be double or triple glazed. No **vinyl windows** are allowed except in the **basement foundation concrete**.
- 4.9 Every dwelling must have a minimum of a three (3) car garage that enters from the side of the dwelling or the rear where feasible. The Committee may allow exceptions if the Lot is too narrow to allow 30' backing space. Detached garages or outbuildings are allowed but must be approved by the Committee and must match the primary dwelling in color and exterior material.
- 4.10 Trailers, mobile homes, trucks larger than standard pickups, boats, tractors, campers, garden or maintenance equipment and vehicles other than automobiles, when not in actual use, shall be kept at all times in an enclosed structure or in a paved side yard area next to the garage and at no time shall any of said vehicles or equipment be parked or stored on a public or private right of way within the Subdivision. The primary purpose of the garage required on each Lot is for the parking and storage of automobiles and other vehicles (hereafter "Automobiles"). No other use of a garage or conversion of a garage, which prohibits or limits the use of a garage for the parking or storage of the number of Automobiles for which it is designed, shall be permitted. Parking on the lawn or unpaved portion of the Lot or in a public right of way within the Subdivision, other than for temporary purposes (as determined by the Committee), is prohibited. No inoperative vehicle shall be parked or stored at any time on a Lot unless wholly within an enclosed structure. No parking in the front yard setback area of the Lot shall be allowed except for the space directly in front of the garage. No on street parking is permitted.
- 4.11 Front and side yard landscaping must be completed within 6 months of occupancy. Front park strips must be grass only and be maintained by homeowner. Back yard landscaping must be complete within one year of occupancy.
- 4.12 All fences must be stone, wrought iron, solid cast concrete panels, or brick. No vinyl fencing or chain link is allowed. Wood fencing is allowed, but must be maintained on the exterior of the fence by the homeowner if the fence is visible to Public View. Street side yard fences on corner Lots shall not be erected within a required street side yard. Heavy foliage and fences are not allowed to interfere with the vision triangle of traffic. All fences shall be constructed and installed and maintained in good appearance and condition at the expense of the Owner of the Lot on which they are located and all damaged fencing shall be repaired or replaced to original design, materials, and color within a reasonable time after said damage occurs. Fences and/or retaining walls installed by the Declarant, City, County, or other public agency on or along property owned by the Declarant, City, County, or other public agency shall not be altered or modified by any Owner or Occupant in any manner other than for routine maintenance (including painting, repair and replacement). Owners and Occupants shall not install parallel fences to those installed by Declarant, City, County or other public agency.

- 4.13 All Owners are responsible for the grade on their Lot. If the grade is changed by cut or fill on a Lot, the Owner of that Lot is responsible for installing a retaining wall, within the boundary of the Owners' lot. All retaining walls shall be engineered and comply with Alpine City Code. The lot Owner shall obtain a building permit prior to construction. All Owners are responsible for keeping water drainage on their own Lot. All grade changes, cuts, fills, and retaining walls must be shown on the scale model prior to commencement of construction.
- 4.14 All Owners shall strictly comply with all state and City ordinances pertaining to fire hazard control. All stacks and chimneys from fireplaces in which combustibles, other than natural gas, are burned shall be fitted with spark arresters. Exterior fires must be contained within appropriate receptacles and in compliance with the applicable government agency.
- 4.15 All outdoor lighting devices shall be described on the construction plans, and are subject to approval by the Committee. The seasonal use of temporary lighting devices to illuminate trees, shrubs, and holiday decorations is permitted for a single term of no more than forty (40) consecutive days per year. All outdoor lighting shall be installed to limit the field of light to the confines of the Lot on which it is installed. The flood lighting of vegetation, tennis courts or similar sports courts or other improvements is also prohibited, except in limited periods of use. These restrictions shall not apply to street lighting maintained by the City.
- 4.16 All television and radio antennas shall be completely erected, constructed and placed within the enclosed area of the Residence or garage on the Lot. Satellite dishes or other electronic reception devices shall be located and screened so as to not be visible from the Street or any adjacent Lot. Exceptions must be expressly approved of, in writing, by the Committee.
- 4.17 Domestic animals may be maintained by the Lot Owners, provided that all animals must be contained in a containment area on the Owner's Lot with the proper fencing and that such contained areas must be cleaned on a regular basis to minimize odors and maintain a clean appearance. The species and number of each species must be allowed for and approved in the Alpine City Code; and furthermore, no animals shall be maintained in areas closer than fifty (50) feet to any Residence built on an adjoining Lot. Commercial raising of animals or pets is prohibited. Owners shall be responsible for all damage or loss incurred by other Lot Owners or their invitee caused by animals they own. Owners will be responsible for maintaining control over animals they own at all times if such animals are taken out of the containment area. This is not limited to standard leash laws. The enclosure constituting the containment area must be maintained such that the animal cannot escape there from. In no case may any household pet or other animal kept at or around the Residence be allowed to create a nuisance for neighboring Lot Owners due to noise, or otherwise.
- 4.18 All improvements on a Lot shall be made, constructed and maintained, and all activities on a Lot shall be undertaken in conformity with all laws and ordinances of the City of



Alpine, Utah County, and the State of Utah which may apply, including without limiting the generality of the foregoing, all zoning and land use ordinances.

- 4.19 Easements for installations and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting, or other material 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 of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements.
- 4.20 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.
- 4.21 Pools, spas, fountains, and game courts must be approved by the 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 similar area ramps; such structures are prohibited.
- 4.22 No structures of a temporary character, such as a trailer, basement, tent, shack, garage barn or other outbuilding shall be used on any Lot at any time as a residence, either temporary or permanently.
- 4.23 It shall be the responsibility of the Lot Owner to direct site work relative to the Lot in such a manner as to minimize erosion and runoff. Construction shall be conducted in such a manner as to prevent the movement of earth, materials or construction debris onto neighboring property or into the storm drainage system. Lot Owners shall cause all construction to take place in a good and workmanlike fashion so as not to misuse the natural streams or irrigation ditches or the natural drainage once constructed.
- 4.24 The burning of rubbish, leaves, or trash on the Lot is prohibited. Trash containers shall be covered and kept screened from view from the street in suitable enclosed areas, except during collection. Additionally, the dumping of grass, grass clippings, or excess construction materials, including but not limited to, concrete, lumber, trash, gravel, extra dirt, rocks, etc. on any Lot, vacant lot or public open space is prohibited. The Lot Owner is responsible for removing any such items that may be placed on its Lot even if the Lot Owner was not responsible for placing the materials on the Lot. If the party responsible for placing such materials on the Lot is known, the Lot Owner has the right to require this party to remove the materials. However, if the party cannot be identified, then the Lot Owner is responsible for removing the materials.
- 4.25 Lot Owners are obligated to maintain their property in a reasonable state of appearance, which shall be deemed to include the elimination or control of weed growth on the Lot and any other factor, which may be considered to be noxious or to create a nuisance. While a time to commence construction is not mandated, the control of weed growth is the sole responsibility of the Lot Owner. The Lot Owner shall at all times remain solely responsible for any damages caused by negligent care or maintenance of their Lot, such as, but not limited to wildfires caused by dry, overgrown weeds. Lot Owners are required

to maintain the weed and grass growth on their lot not to exceed 12” tall. Additionally, Lot Owners must maintain weed and grass growth on parkways not to exceed 6” tall. Lot Owners must edge the parkways and Lot next to the sidewalks so as to prevent obstructions on the sidewalks. If the Committee determines that the conditions set forth herein are not being met or if the use or vegetation on the Lot is in some way a nuisance the Committee may contact the Lot Owner in writing notifying the Owner that the Owner must immediately rectify the situation. If the Lot Owner does not rectify the situation to the satisfaction of the Committee within fourteen (14) days following the written notification from the Committee, the Committee shall assess the Lot Owner with a per diem late fee of \$100 per day for every day following the fourteen (14) day notice period that the situation is not rectified to the satisfaction of the Committee. If the Lot Owner does not rectify the situation within thirty (30) days after receiving the written notification from the Committee, then the Committee may undertake the necessary actions to rectify the situation and shall assess the Lot Owner with a fee equal to such costs plus the per diem late fees that have accrued to this point. If the Lot Owner does not pay such fees within thirty (30) days after receipt, the Committee shall have the right to place a lien against the Lot as outlined below. The Lot Owners hereby agree to allow the Committee or any agent of the Committee to enter onto the Lot and undertake the necessary actions to rectify the situation. While the Committee has the ability to rectify a violation of the provisions set forth herein, as noted above, the Lot Owner shall at all times remain solely responsible for any damages caused by negligent care or maintenance of the Lot.

- 4.26 The Subdivision was approved by Alpine City, under the conditions and restrictions associated with the Open Space Subdivision Option, PRD, of the Alpine City Code. The Open Space, as designated on the Map, must be maintained in perpetuity as open space, and continue to be maintained in accordance with the design, standards and other requirements as approved by Alpine City at the time of the Final Map approval. The Open Space has been created for the benefit of all Owners, as well as the general public and shall be maintained in such a manner as to provide all Owners and the general public with unimpaired access and enjoyment of these areas. It is anticipated that the ownership of the Open Space will be conveyed to Alpine City and the maintenance and insurance of the Open Space will be the responsibility of Alpine City.
- 4.27 The following persons shall have the right to exercise or seek any remedy at law or in equity to enforce strict compliance with this Declaration:
- (a) Declarant, so long as it has any interest in any part of the Subdivision or a Lot;
  - (b) Any Owner; or
  - (c) The Committee

The prevailing party in an action for the enforcement of any provision of this Declaration shall be entitled to collect court costs and reasonable attorney’s fees. Failure by any of these parties to enforce this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

4.28 Neither the Committee nor any Owner of a Lot shall have the authority to waive or alter the conditions or requirements set out as notes on the Plat.

4.29 While constructing any Improvement on a Lot, the Lot Owner shall ensure that any contractor or subcontractor working on such Improvement shall comply with the conditions stated below:

(a) Trash control – A dumpster will be located on each Lot where there is a Residence under construction. Lot Owner will be responsible for the clean up of all wind blown trash. Additionally, Lot Owner shall remove all rubbish and debris, cut the weeds, and otherwise maintain the Lot in a neat and aesthetically pleasing condition. In accordance with Section 4.25, above, in the event Lot Owner fails to do so, the Committee and any agent of the Committee is hereby authorized to enter onto the Lot and remove all such rubbish and debris, cut the weeds, and maintain the Lot. All costs and expenses incurred by the Committee, in so doing, shall be assessed as a fee against the Lot Owner in accordance with the terms set forth above.

(b) Toilets – A portable toilet will be provided for each Residence under construction.

(c) Construction Fencing – the Lot Owner will be required to put up a construction fence along all the property lines prior to commencing construction.

(d) Front Parkway Drainage – the Lot Owner agrees to maintain the front parkway drainage swale as to prevent mud and debris from entering storm drain system.

(e) Builder Sign – the Lot Owner will put a sign on each lot under construction, signifying the name, and working phone number of the builder.

(f) Buyer, upon close of escrow on the property, is responsible for protecting all Improvements, especially concrete sidewalks, curbs and gutter, by allowing access to the Lot only at locations protected by ramps. In addition, buyer is responsible for any and all damage that may occur. Buyer shall be required to pay a damage deposit in the amount of \$2,500 per lot (Hereinafter referred to as “Damage Deposit”) at each lot closing, to be used to compensate Seller for any damages to development improvements constructed by Seller on the Property which are caused by Buyer or its invitees, agents, contractors, subcontractors, or assignees during the course of construction on the Property.

(g) In accordance with the provisions set forth above, both during and after construction, the temporary or permanent storage of materials, vehicles, trailers, campers, mobile homes, boats, tractors, and equipment is strictly prohibited.

(h) Access to any Lot shall occur only between the front property lines of the Lot. Any access to the Lot other than between front property lines must be

requested in writing and approved 48 hours prior to access being granted. It shall be the Lot Owner's responsibility to notify all persons working on or delivering to the Lot to use such access. Any vehicles or persons found accessing the Lot through any other means without written permission shall be considered trespassing, and local police will be notified. Concrete for footings and foundations will need to be pumped unless the Lot Owner is able to access areas without crossing property lines.

(i) Any material generated from the Lot during excavation must remain on the Lot. If the Lot is unable to accommodate generated materials, the Lot Owner shall haul away all excess materials the same day they are generated.

(j) The Lot Owner's contractor shall sign a "Construction Rules Agreement", which shall be provided to the Lot Owner, by the Committee.

(k) Buyer's General Contractors (Home Builder and Landscape Contractor) shall provide a certificate of Liability insurance listing Heritage Hills, Inc. as an Additional Insured on their General Liability Policy.

Certificate holder:	Heritage Hills, Inc. 1416 N. 2100 W. Provo, UT 84604
---------------------	--

Minimum General Liability:	\$1,000,000
Minimum General Aggregate:	\$2,000,000
Automobile Liability:	\$1,000,000
Worker's Compensation Certificate	

(l) Buyer and Buyer's builder are aware of, understands, and agrees to comply with Alpine City's "Clean Street Ordinance". Alpine City will withhold inspections if not complied with.

4.30 In addition to the remedies set forth above, the Committee shall have the right to assess fees or penalties against a Lot Owner for any breach or violation of the terms and conditions contained in this Declaration. For certain breaches or violations, the amount of the fee or penalty is specifically set forth in the Declaration. However, if the Declaration does not set forth a specific amount for any given breach or violation, then the Committee shall have the right to assess a fee or penalty that is reasonable in relation to the breach or violation of the Declaration or the amount of the costs necessary to correct the breach or violation. The following provisions shall apply to any fee or penalty assessed by the Committee:

(a) Each Owner shall, by acquiring or in any way becoming vested with his interest in a Lot, be deemed to covenant and agree to pay to the Committee any fee or penalty that may be assessed as set forth in this Declaration, together with the hereinafter provided for interest and costs of collection. All such amounts shall be, constitute, and remain: (a) a charge and continuing lien upon the Lot with respect to which such fee or penalty is assessed; and (b) the personal obligation of the person who is the Owner of such Lot at the time the fee or

penalty is assessed. No Owner may exempt himself or his Lot from liability for payment of any such fee or penalty assessed by the Committee by abandoning his Lot. In a voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all such unpaid fees or penalties, late payment fees, interest and costs of collection, including reasonable attorneys fees, which shall be a charge on the Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore.

(b) Any fee, penalty or other payments due hereunder not paid when due shall, together with the hereinafter provided for interest and costs of collection be, constitute and remain a continuing lien on the affected Lot; provided, however, that any such lien will be subordinate to the lien or equivalent security interest of any first mortgage on the Lot recorded prior to the date any such fee or penalty was assessed. If the fee, penalty or other payment is not paid within sixty (60) days after the date on which it becomes delinquent, the amount thereof shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum and the Committee may bring an action either against the Owner who is personally liable or to foreclose the lien against the Lot. Any judgment obtained by the Committee shall include reasonable attorneys' fees, court costs, and each and every expense incurred by the Committee in enforcing its rights.

#### ARTICLE V GENERAL PROVISIONS

- 5.1 Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering title to a Lot shall describe the interest or estate involved substantially as follows:

Lot No. \_\_\_\_\_ of Heritage Hills, a Planned Residential Development, according to the Plat thereof recorded as entry number 99456:2006 of the Official records of Utah County, which Lot is contained within the Heritage Hills, a Planned Residential Development identified in the "Declaration of Covenants, Conditions and Restrictions of Heritage Hills, a Planned Residential Development" recorded as entry number \_\_\_\_\_ SUBJECT TO the covenants, conditions, restrictions, easements, charges and liens provided for in said Declaration of Covenants, Conditions and Restrictions.

Whether or not the description employed in any such instrument is in the above-specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot. Any lease of a Lot shall be in writing and shall provide that the terms of the Lease shall be subject in all respects to the provisions of this Declaration and that any failure by the lessee to comply with the terms of such documents shall be a default under the Lease.

- 5.2 Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provision, which shall remain in full force and effect.

- 5.3 Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not effect the validity or enforceability of any of the other provisions hereof.
- 5.4 Declarant reserves the right to grant, convey, sell, establish, amend, release, and otherwise deal with easements, reservations, exceptions, and exclusions with respect to the Property which do not materially interfere with the best interests of Owners including, but not limited to, access and utility easements, road easements, pedestrian and equestrian easements, pedestrian and hiking trails, and easements and drainage easements. Declarant further reserves the right to make minor amendments and corrections to the Plat, to alter the boundary of Lots, to combine Lots, or to change the size and product type of dwellings constructed in the Subdivision, the density and number of dwellings in the Subdivision, and to change the interior design and interior arrangement of a dwelling, so long as Declarant owns the affected Lot(s) or dwelling(s).
- 5.5 Any notice required or permitted to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly furnished if delivered or mailed, postage prepaid, to the person named as the Owner, at the latest address for such person as reflected in the records of the Committee at the time of delivery or mailing. Any notice, required or permitted to be given, to the Committee may be given by delivering or mailing the same to any member of the Committee.
- 5.6 Except as provided elsewhere in this Declaration, this Declaration may be amended by:
- (a) the affirmative vote of seventy-five percent (75%) of the Owners, or
  - (b) the written consent of Declarant, if such amendment is adopted at a time when Declarant still owns at least one Lot.
- 5.7 This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and all inure to the benefit of Declarant, the Owners, all parties who hereafter acquire any interest in a Lot, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Residence shall comply with the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration. By acquiring any interest in a Lot, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.
- 5.8 The covenants and restrictions of this Declaration shall remain in effect until forty (40) years from the date this Declaration was first filed in the office of the County Recorder of Utah County, Utah, after which time they shall be automatically extended for successive periods of ten (10) years each unless terminated by an instrument filed in the office of the County Recorder, executed by any two (2) Owners certifying that the Owners of at least seventy-five percent (75%) of the Lots voted in favor of such termination. If any of the privileges, covenants, or rights created by this Declaration would otherwise be unlawful or void for violation of (1) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or

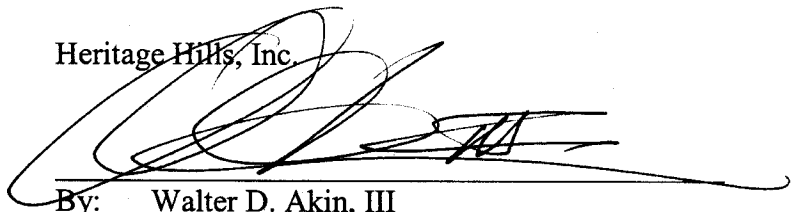
common law rules imposing time limits, then the provision herein creating such privilege, covenant or right shall, in any event, terminate upon the expiration of the Dates of: (i) twenty-one (21) years after the death of the last survivor of the now living lawful descendants of Jon Huntsman, Jr., the current Governor of the State of Utah at the time this Declaration was recorded; or (ii) the longest period permitted under the Utah Uniform Statutory Rule Against Perpetuities, Utah Code Sections 75-2-1201, et seq. for the vesting or termination of rights created by this Declaration.

- 5.9 In the event an Owner or occupant fails to maintain a Lot or fails to cause such Lot to be maintained, or fails to observe and perform all of the provisions of this Declaration, the applicable rules and regulations, or any other agreement, document, or instrument affecting the property in the manner required, the Committee or City shall have the right, but not the affirmative obligation, to proceed in a court of appropriate jurisdiction to require performance and/or compliance, to impose any applicable fines, to sue in a court of law for damages, and to charge to the Owner for the sums necessary to do whatever work is required to put the Owner, Residence, Lot, or other improvement or accessory in compliance.
- 5.10 This Declaration and any amendment hereof shall take effect upon its being filed for record in the office of the County Recorder of Utah County, Utah.

Executed as of the day and year set forth above.

DECLARANT:

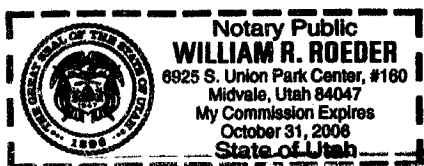
Heritage Hills, Inc.

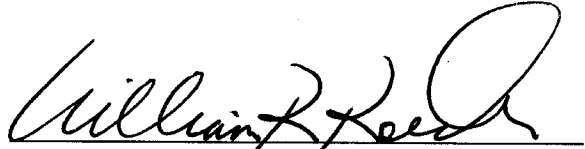


By: Walter D. Akin, III  
Its: President

STATE OF UTAH )  
COUNTY OF Salt Lake )

On the 14<sup>th</sup> day of August, 2006 personally appeared before me Walter D. Akin, III, who being by me duly sworn did say that he the said Walter D. Atkin, III is the President of Heritage Hills, Inc. and that foregoing instrument was signed in behalf of said corporation by authority of its board of directors and said Walter D. Atkin, III duly acknowledged to me that said corporation executed the same.



  
Notary Public

**EXHIBIT A**

(Legal Description)

Lots 101 thru 121, inclusive, PLAT "A" HERITAGE HILLS ALPINE, according to the official plat thereof, as recorded in the office of the Utah County Recorder

Parcel Identification Numbers 41-643-0101 thru 41-643-0121, inclusive.