

DECLARATION OF BUILDING & USE  
RESTRICTIONS  
OF  
ABRAMS FAIR HAVENS, PHASE ONE

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RICHARD T. MURPHY  
DAVIS COUNTY, UTAH RECORDER  
01/04/2005 12:54 PM  
FEE: \$40.00 Page: 7  
DEPT REC'D FOR MATT LEWITT

PART A: PREAMBLE

KNOW ALL MEN BY THESE PRESENTS:

THAT, WHEREAS, THE UNDERSIGNED, being the owners of the following described real property located in Davis County, State of Utah, to-wit;

All of lots 1 through 19 of Abrams Fair Havens Subdivision Phase One, according to the official records of the County Recorder's office of Davis County, State of Utah.

Do hereby establish the nature of the use and enjoyment of all lots in said subdivision and do declare that conveyances of above referenced lots shall be made subject to the following conditions, restrictions and stipulations:

PART B: RESIDENTIAL AREA COVENANTS

1. Land Use and Building Type. 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 two vehicles. All construction to be of new materials, except used brick may be used with prior written approval of the Architectural Control Committee. Said premises shall be used for private resident purposes only except as hereinafter set forth, and no structure of any kind shall be moved upon said premises, nor shall any incomplete building be permitted to remain incomplete for a period in excess of one year from the date the building was started unless approved by the Architectural Control Committee.

2. Architectural Control. No building shall be erected, placed, or altered on any lot until the construction plans, specifications and a plan showing the location of the structure has been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of exterior with existing structures, and also to location with respect to topography and finishes grade elevation. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the front building set back line unless similarly approved. Approval shall be as provided in Part D.

3. Dwelling, Quality and Size. The intention and purpose of these covenants are to assure that all dwellings shall be of a quality of workmanship and materials for the minimum permitted dwelling size. The minimum permitted dwelling size shall be as follows:

- (a) The ground floor square footage area of the main structure, exclusive of a garage and any one-story open porches, shall not be less than 1500 square feet for a one-story dwelling.
- (b) In a two-story home, which is two stories above the curb level, the combined area of the ground story level and the story above ground-story level, exclusive of a garage and any one-story open porches, shall total not less than 1800 square feet, with a minimum of 10% square footage difference between the two floor levels.
- (c) In a multi-level home (i.e., three or four level split), the levels above grade, exclusive of a garage and any one story open porches, shall not be less than 2000 square feet.
- (d) No building shall be erected or placed on any lot that does not meet both of the following requirements:
  - (d1) Dwelling must have at least 40% brick or stone on the front elevations, with the balance of the front elevations being stucco.
  - (d2) Dwelling must have a 3 foot brick or stone wainscot on both side elevations, OR 100% stucco on both side elevations.
- (e) All exterior materials and colors must be approved by the Architectural Control Committee prior to commencement of construction. The exterior insulated finish system (EIFS) is the required method and system of stucco application. Any other stucco method or system must be approved by the Architectural Control Committee.
- (f) Aluminum or vinyl siding shall be allowed in soffit, fascia, and in the rear of the home, and other areas only as approved by the Architectural Control Committee.
- (g) Roofing material shall be cedar shake, tile, or architectural grade asphalt shingle (25 year types) or as approved by the Architectural Control Committee. The roof pitch shall be no less than 6/12 pitch, and must have a 2" X 6" fascia.
- (h) Exterior building materials requirement for any accessory building or storage sheds over 200 square feet for floor area, shall be the same as building materials requirements for the main residence.

The purpose of these covenants is to assure that all dwellings shall be of a quality of workmanship and materials substantially the same as or better than that which can be produced at the date that these covenants are recorded. The minimum square footage cited in the previous paragraphs can be waived if prior written approval of the Architectural Control Committee is obtained and the lot size and topography justify the waiver, and all the covenants contained in this declaration are met.

The Architectural Control Committee reserves the right to be "subjective" in approving or disapproving the construction of any home to be built in the subdivision in order to enhance and protect the value, desirability, and attractiveness of the lots. It is contemplated by this declaration, and agreed to by all lot owners, that there can be

variations and adjustments made. The Architectural Control Committee will be subjective, but not arbitrary, in approving building plans in substantial conformity with these Protective Covenants.

4. Building Location.

- (a) For the purpose of this covenant, caves, steps, and open porches shall not be considered as part of a building, provided, however, that this shall not be construed to permit any portion of any building on a lot to encroach upon another lot.
- (b) The setbacks are 30 feet for the front yard. Corner lot street side setbacks are 20 feet, with all other side yard setbacks to be 10 feet. All rear setbacks will be 30 feet.

5. Easement. Easements for installation 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. The easement area of each lot and all improvements in it shall be maintained continuously by the lot owner, except for those improvements for which a public authority or utility company is responsible.

6. 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 clothes drying or storage of any articles which are unsightly in the opinion of the Architectural Control Committee will be permitted on patios or in other open areas, unless the patio or area is enclosed and designed for such purposes. No automobiles, trailers, boats, or other vehicles are to be parked or stored on the front or side street of the lots unless they are in running condition, properly licensed, and are being regularly used. Automobiles must be moved every 24 hours. All RV's stored or parked on the lot must be located to the side or in the rear of the home and must be concealed from the front of the street. All roof mounted heating and cooling equipment must be set back to the backside of the roof. All TV antennas are to be placed in the attic or out of view. Satellite dishes are to be hidden and from view from the street. Within one year of occupancy of each and every home built in the subdivision the front landscaping must be completed so as not to negatively impact the aesthetics of the subdivision. "Acceptable landscaping" and "lawn" shall be interpreted by the then existing Architectural Control Committee which will reflect the majority view of the then-existing homeowners in the subdivision.

7. 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. No mobile homes are permitted.

8. Private Residence, Moving of Structures, Incomplete Building. Said premises shall be used for private residence purposes only, except as hereafter set forth, and no structure

of any kind shall be moved from any other prior residence upon said premises. No incomplete building shall be allowed to remain incomplete for a period in excess of one year from the date the building is started unless approved, in writing, by the Architectural Control Committee. Manufactured homes, mobile homes, and modular units are not permitted, regardless of whether such structures are permanently fixed to the premises.

9. Signs. No sign of any kind shall be displayed to the public view on any lot except signs used by a builder to advertise the property during the construction and sales period, or signs used by a property owner advertising the property for sale.

10. Livestock and Poultry. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose and are restricted to the owner's premises or on a leash under handlers' control.

11. Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish, broken concrete, or concrete washout from cement trucks. Trash, garbage or other waste will not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. Each lot and its abutting streets are to be kept free of trash, weeds, and other refuse by the lot owner. No unsightly materials or other objects are to be stored on any lot in view of the general public.

12. Sight Distance at Intersection. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines or in case of a rounded property corner from the intersection of the street property lines extended. The same sight-line limitations shall apply on a driveway pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such lines.

13. Oil and Mining Operations. Oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick, pumps, rigs, or other structure designed for use in boring for oil or gas shall be erected, maintained, or permitted upon any lot.

14. Landscaping. Trees, lawns, shrubs or other plantings shall be properly nurtured and maintained or replaced at the property owner's expense upon request of the Architectural Control Committee.

15. Slope and Drainage Control. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels or obstruct or retard the flow of water

through drainage channels. The slope control areas of each lot and all improvements in them shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

#### **PART C: NOTICE OF RIGHT TO AGRICULTURAL ACTIVITIES**

The city of West Point permits properly conducted agricultural activities and agricultural operations within the City.

You are hereby notified that the property you are purchasing is located within agricultural activities, agricultural operations or agricultural lands. You may be subject to inconveniences or discomfort from lawful agricultural activities or agricultural operations. Discomfort or inconvenience may include, but are not limited to, noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents and/or the operation of machinery (including aircraft) at any time during the day or night.

One or more of the inconveniences described may occur as a result of agricultural operations, which are in compliance with existing laws and regulations and accepted custom and standards. If you live near an agricultural area, you should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in an area with strong rural character and an agricultural sector.

Lawful ground rig or aerial application of pesticides, herbicides, and fertilizers occur in farming operations. Should you be concerned about spraying, you may contact the Davis County Farm Bureau.

The City of West Point's Right to Agricultural Activities Ordinance does not exempt farmers or others from compliance with law. Should a farmer or other person not comply with appropriate state, federal, or local laws, legal recourse is possible by, among other ways, contacting the appropriate agency.

This notification is given in compliance with the Revised Ordinances of West Point City, 2000, Section 18-4a-3.

The failure to include the forgoing notice shall not invalidate any grant, conveyance, lease, or encumbrance.

#### **PART D: ARCHITECTURAL CONTROL COMMITTEE**

1. **Membership.** In the event of death or resignation of any member of the Architectural Control Committee, the remaining members of the Committee shall have full authority to select a successor. Neither the members of the Committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. A majority of the committee may designate a representative to act for it. At such time that all lots owned by the initial owner/developer are sold, the aforementioned owner/developer shall be released from responsibility from the committee. At any time after all lots owned by the initial owner/developer are sold, the record owners of a two-

thirds majority of the then recorded owners of the lots 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. The Architectural Control Committee is composed of Mathew Leavitt, Brent Leavitt, and Tyler Leavitt.

2. Procedure. The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated representatives, fails to approve or disapprove within 30 days after plans and specifications have been commenced prior to the completion thereof, approval will not be required, and the related covenants shall be deemed to have been fully complied with.

#### PART E: GENERAL PROVISIONS

1. TERM. 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 years from the date these covenants are recorded, after which time, said covenants shall be automatically extended for successive periods of ten years unless an instrument signed by a two-thirds (2/3) majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

2. ENFORCEMENT. Enforcement shall be by proceedings at law or in equity against any person or persons violation or attempting to violate any covenant either to restrain violation or to recover damages.

3. SEVERABILITY. Invalidation of any portion of these covenants by judgment of court order shall in no way affect the other provisions herein which shall remain in full force and effect as if these covenants had been executed and recorded with the invalid portions eliminated.

4. MODIFICATION. This Declaration of Protective Covenants may be modified, amended, supplemented, or cancelled by an instrument signed by a two-thirds (2/3) majority of the then owners of record of all lots in the Abrams Fair Havens Phase One Subdivision.

Dated this 8 day of Nov, 2007

Signed by:

Doyle D. Abrams

Signed by:

Florence K. Abrams

Signed by:

John D. Abrams

Signed by:

Lorraine M. Abrams

Signed by:

Mathew H. Leavitt

Signed by:

Celinda O. Leavitt

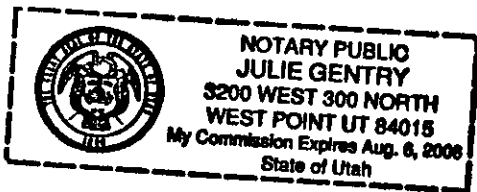
STATE OF UTAH

COUNTY OF DAVIS

On the 8 day of Nov, 2007, personally appeared before me:

DOYLE D. ABRAMS and FLORENCE K. ABRAMS,  
JOHN D. ABRAMS and LORRAINE M. ABRAMS, and  
MATHEW H. LEAVITT and CELINDA O. LEAVITT

The signers who duly acknowledged that they executed the same.



Julie Gentry  
Notary Public