



\*W2136314\*

**DECLARATION OF BUILDING AND USE RESTRICTIONS  
OF  
ELI ACRES SUBDIVISION PHASE 2**

**PART A. PREAMBLE**

E# 2136314 PG 1 OF 7  
DOUG CROFTS, WEBER COUNTY RECORDER  
18-OCT-05 11:39 AM FEE \$42.00 DEP VD  
REC FOR: MOUNTAIN VIEW TITLE - OGDEN  
ELECTRONICALLY RECORDED

**KNOW ALL MEN BY THESE PRESENTS:**

THAT, WHEREAS, THE UNDERSIGNED, being the owner(s) of the following described real property in Weber County, State of Utah, to wit:

~~El Acres Subdivision, Lots 13, 23 according to the official records of the county recorder's office of Weber County, State of Utah~~  
**See Attached Exhibit "A"**

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

**PART B. RESIDENTIAL AREA COVENANTS**

1. Land Use and Building Type. No lots 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 and private garages for not less than two vehicles. Accessory buildings may be erected only with Architectural Control Committee approval as described herein. All construction to be of new materials, excepts that 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, structure or wall shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external with existing structures, and as to location with respect to placement on lot, topography and finish grade elevation. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the front building setback line unless similarly approved. Approval shall be as provided in Part C.

3. Dwelling Cost Quality and Size. No Dwelling shall be permitted on any lot at a cost of less than \$150,000, exclusive of lot and financing, based upon cost levels prevailing on the date of these covenants are recorded, it being the intention and purpose of the covenants to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than that which can be produced on the date these covenants are recorded at the minimum cost stated herein for the minimum permitted dwelling size. The minimum permitted dwelling size shall be as follows:

- (a) Architectural Control Committee may decide square footage requirements based on design, location in subdivision and market – Below square footage are recommendations only.
- (b) The ground floor square feet area of the main structure, exclusive of garage and any one-story open porches, shall not be less than 1500 square feet for a one-story dwelling with 2 car garage, 1400 with 3 car garage attached.
- (c) In a rambler type home with a basement the above grade finished square footage shall not be less than 1500 square feet with 2 car garage, 1400 with 3 car garage attached.

(d) In a two-story home, or a multi-level home, the combined area of the ground story level and the story above ground-story level, exclusive of garage and any one-story open porches, shall total not less than 1700 square feet above ground level.

(e) All dwellings shall be set on permanent foundations. All houses shall have an attached garage large enough to accommodate at least two automobiles. All houses shall be finished with brick, stucco or stone on all parts of the front of the house. Unless otherwise approved by the Architectural Control Committee. The rear and sides of the house may be siding if chosen by the ultimate home builder. Foundations or basement cement must not exceed three feet of exposure out of the ground line, unless the appropriate finish materials as described above are used for the facade. All houses shall have a roof with a minimum 5/12 pitch.

(f) All exterior materials must be approved by the Architectural Control Committee prior to commencement of construction.

(g) Aluminum siding shall be allowed in soffit and fascia areas, and in other areas approved by the Architectural Control Committee.

(h) Roofing materials shall be cedar shake, tile, or architectural grade asphalt shingles (25+ year type) or as approved by the Architectural Control Committee.

(i) There shall be no mobile or manufactured home of any type permitted within the subdivision.

(j) Lots along 5900 West shall have solid vinyl fence. All Fencing to be the same color vinyl.

The Architectural Control Committee reserves the right to be "subjective" in approving or disapproving the construction of any home 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 will be variations and adjustments made by the Architectural Control Committee in approving or disapproving building plans. The process of approval by the Architectural Control Committee will be subjective, but not arbitrary, in approving building plans in substantial conformity with those Protective Covenants.

4. Building Location. To retain desired separation of buildings on adjacent lots, yet to eliminate undesired rigidity in the pattern of dwellings created by "ordinary" set back lines, and to encourage greater opportunity for the individual freedom in development of the lots, the following guidelines are set:

(a) Dwelling set back shall be at least twenty-five (25) feet from the front property line adjacent to designated roadway, ten (10) feet for the side yards, along a line paralleling side property lines, and twenty-five (25) feet for rear yards, along a line paralleling the rear yard line. All set backs on corner lots shall be in conformity with minimum footage as specified in the applicable zoning ordinances of Hooper City.

(b) Garages and other non inhabited structure set backs shall be the same as specified above for dwellings, unless otherwise approved by the Architectural Control Committee.

(c) For the purpose of this covenant, eaves, steps, and open porches shall not be considered as a 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.

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, 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 purpose. 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 used regularly. Automobiles must be moved at least every 7 days. All RV's stored or parked on the lots 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 back side of the roof out of view from the street. All TV antennas are to be placed in the attic out of view. Satellite dishes are to be hidden from view from the street. Within one year of occupancy of each and every home built in the subdivision, the front and side yards, and within two years of occupancy, the back yard, shall be planted in lawn or other acceptable landscaping 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 buildings shall be used on any lot at any time as a residence either temporarily or permanently. No overnight camping will be permitted on any lot.
8. Private Residence, Moving of Structures, Incomplete Building. Said premises shall be used for private residence purposes only, except as hereinafter set forth. No incomplete building shall be allowed to remain incomplete for a period or excess of one year from the date the building is started unless approved, in writing, by the Architectural Control Committee.
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. Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. Each lot must 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.
11. 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 the 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 or alley pavement, except that such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.
12. Domestic-Household Pets. Domestic Household pets and such additional animals or livestock as may be permitted by applicable zoning ordinances of Weber County or Hooper City, may be kept on any lot. No large animals or livestock may be confined in an area in the side or front of any dwelling or attached garage. Large animals or livestock may be permitted to occupy the area to the side or front of any dwelling or garage only if the area is maintained in grass and the animals have access to a larger area to the rear of the dwelling.
13. Completed residence. No residence shall be occupied until the same has been substantially completed in accordance with its plans, specifications and Weber County or Hooper City guidelines.
14. Storage Tanks. Every tank for the storage of fuel installed outside any building in the Subdivision shall be either buried below the surface of the ground or screened to the satisfaction of the Control Committee by fencing or

shrubby. Every outdoor receptacle for ashes, trash, rubbish or garbage shall be installed underground, screened or so placed as not to be visible from any street or common area within the Subdivision.

15. Destroyed or damaged Building. Any dwelling or outbuilding on any lot in the Subdivision which may be destroyed or damaged in whole or in part by fire, windstorm, earthquake or any other "Act of God", or any human caused destruction or damage, must be rebuilt, repaired or all debris removed and the lot restored to a sightly condition with reasonable promptness; provided, however, that no debris shall remain longer than sixty days.

16. Trash, Garbage and Refuse. No trash, ashes, garbage or other refuse or debris shall be dumped, stored, accumulated or allowed to accumulate on any lot or be thrown into or left in the Subdivision.

17. Oil and Mining Operations. No oil drilling, oil development operation, 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 or other structure designed for use in boring for oil or gas shall be erected, maintained, or permitted upon any lot.

18. 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.

19. Slope and Drainage. 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 area 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. 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 of 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 initial Architectural Control Committee is composed of:

Mike Schultz  
Allan Karras

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 representative, fails to approve or disapprove within 30 days after written plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the final and actual completion thereof, approval will not be required, and the related covenants shall be deemed to have been fully complied with.

3. Immunity. Notwithstanding the foregoing provisions, the Architectural Control Committee shall have an affirmative obligation to be certain that all elements of the design comply with the restrictions contained in this declaration, and no member of the Architectural Control Committee shall have any liability, responsibility, or obligation, whatsoever, for any decisions or lack thereof, in the carrying out of the duties as a member of such committee. Such committee and its members shall have only an advisory function, and the sole responsibility for compliance with all of the terms of the declaration shall rest with the homeowner. Each lot owner agrees to save, defend, and hold harmless the Architectural

Control Committee relating to such owner's property or buildings to be constructed on his or her property.

**PART D. GENERAL PROVISIONS**

1. Accepted Owner Activities. Nothing in this Declaration shall prevent Owners', Owners' developer transferees or the employees, contractors, or sub-contractors of Owners' developer transferee from doing on any part or parts of the subdivision whatever they determined may be reasonably necessary or advisable in connection with the development of the subdivision, including, but not limited to, construction and maintenance of such structures, including model homes, as may be reasonably necessary for the completion of the development of the subdivision, conducting the business of establishing the subdivision as a residential community. In the disposing of lots by sale, lease, or otherwise, and maintaining of such sign or signs on any of the lots owned or controlled by the owner or owners' developer transferee as may be reasonably necessary for sale of subdivision lots. As used in this section, the words "Owners' developer transferee" specifically exclude individual purchases of improved lots.
2. Revocation. The Declarant reserves to itself and/or its successors and assigns the right to revoke at any time prior to sale of any lot within the Subdivision all or any part of these restrictions and further to vacate any or all streets, common facilities and any other amenity shown on the recorded plat.
3. 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.
4. Variations. The Committee may allow reasonable variations and adjustments to these restrictions in order to overcome practical difficulties and prevent unnecessary hardships in the applications of the provisions contained herein provided, however, that such is done within conformity with the intent and purposes hereof and provided also that in every instance such variance or adjustment will not be materially detrimental or injurious to other property and/or Improvements within the Subdivision. Also, any such variance or adjustment must be applied for by the owner in writing and approved of in writing by the Committee.
5. Enforcement. If any party herein, or its successors or assigns, shall violate or attempt to violate any of these covenants herein, it shall be lawful for any other person or persons owning real property within this Subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any covenants including, but not limited to, by restraining order or recovery of damages or both. These enforcement rights shall be cumulative and are not intended to exclude any other remedies which may be available to any person in law or in equity. In any action to enforce this declaration the prevailing party shall be entitled to an award of reasonable attorney's fees and costs incurred in prosecuting such action. By purchasing or acquiring a lot within the Subdivision, such lot owner agrees that immediate and irreparable harm without adequate remedy at law shall be the presumed consequence in the event of any breach or threatened breach of these covenants, and that any party or persons having standing and seeking to enforce these covenants may obtain a temporary restraining order, preliminary injunction and permanent injunction, among other remedies, in order to enjoin the threatened or prescribed conduct.
6. Severability. Every one of the Restrictions is hereby declared to be independent of, and severable from the rest of the Restrictions and of and from every combination of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable or to lack the quality of running with the land, that holding shall without effect upon the validity, enforceability, or "running" quality of any other one of the restrictions.
7. Acceptance of Restrictions. All purchases of property described above shall, by acceptance of delivery of any deed, or by purchasing under a contract, or by acquiring any interest in any lot listed herein, or any portion thereof, be conclusively deemed to have consented and agreed to all restrictions, conditions, covenants and agreements set forth within.

8. Mutuality of Benefit and Obligation. The restrictions and agreements set forth herein are made for the mutual and reciprocal benefit of each and every lot and lot owner in the Subdivision and are intended to create mutual, equitable servitude upon each of said lots and the respective owners in favor of each and all the other lots and owners therein; to create reciprocal rights between the respective owners of all said lots; to create a privity of contract and estate between the grantees of said lots, their heirs, successors and assigns, and shall, as to the owner of each lot, his heirs, successors or assigns, operate as covenants running with the land for the benefit of each and all other lots in the Subdivision and their respective owners.

9. Grantee's Acceptance. The Grantee of any lot subject to the coverage of this Declaration, by acceptance of a deed conveying title thereto or the execution of a contract for the purpose thereof, whether from the undersigned or from a subsequent owner of such lot, shall accept such deed or contract upon and subject to each and all of these restrictions and the agreements herein contained and by such acceptance shall for him/herself, his/her covenant, consent and agree to and with Declarant, and consent with the grantees and subsequent owners of each of the lots within the Subdivision to keep, observe, comply with and perform said Restrictions and agreements.

10. Modification. This Declaration of Protective Covenants may be modified, amended, supplemented, or canceled by an instrument signed by a two-thirds (2/3) majority of the then owners of record of all lots.

Dated this 17 day of October 2005.

Lakeview Farms, LLC  
by:

Allan Karras  
Allan Karras, Manager

STATE OF UTAH )

COUNTY OF WEBER )

On the 17 day of October, 2005 personally appeared before me, and Allan Karras, Manager, who being duly sworn say that they are the managers of the company that executed the above and forgoing instrument and that said instrument was signed on behalf of said company by authority and the said ALLAN KARRAS acknowledged to me that the said company executed the same.

IN WITNESS WHEREOF I have herewith set my hand and affixed my seal this 17 day of October, 2005

Notary Public

Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_



**EXHIBIT "A"**

**ELI ACRES SUBDIVISION LOT 13R, 14, 15, 16, 17R, 18R, 19, 20, 21, 22, 23, 24, 25, 26R, 27, 28R, 29, 30, 31, 32 & 33 ACCORDING TO THE OFFICIAL RECORDS OF THE COUNTY RECORDER'S OFFICE OF WEBER COUNTY STATE OF UTAH.**

09-545-0001 thru 09-545-0021

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