



After recording mail to:

RICHARDS LAW, PC
4141 S. Highland Drive, Ste. 225
Salt Lake City, UT 84124

**AMENDMENT TO THE
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
THREE MILE CREEK ESTATES**

A. Certain real property in Box Elder County, State of Utah, known as Three Mile Creek Estates was subjected to certain covenants, conditions, and restrictions pursuant to a Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Three Mile Creek Estates recorded on July 25, 1997, as Entry Number 100487, in the Recorder's Office for Box Elder County, State of Utah ("Declaration"), and this Amendment shall be binding against all of the property described in the Declaration and any amendment, annexation or supplement thereto.

B. This amendment shall be binding against the property described in the Declaration and further described herein as **Exhibit A**.

C. This Amendment is intended to set forth the intent of the Three Mile Creek Estates Owners' Association (the "Association") to provide housing for persons 55 years of age or older pursuant to federal guidelines, and the provisions set forth herein.

D. Additionally, the Association deems requiring owners to occupy their residents prior to renting within the community in the best interests of the owners.

E. Pursuant to Article XV, Section 5 of the Declaration, the undersigned member of the Board of Trustees for the Association hereby certifies that the necessary affirmative votes have been obtained to approve this Amendment.

NOW THEREFORE, the following Recital shall be added to the Declaration as follows:

NOTICE OF AGE RESTRICTED COMMUNITY:

CONSISTENT WITH THE FEDERAL HOUSING FOR OLDER PERSONS ACT, 42 U.S.C. §§3601, ET SEQ ("HOPA") and 24 CFR PART 100 SUBPART E, THREE MILE CREEK ESTATES OWNERS' ASSOCIATION IS INTENDED TO, AND SHALL BE MANAGED, TO PROVIDE HOUSING FOR PERSONS 55 YEARS OF AGE OR OLDER.

EXCEPT AS PROVIDED IN THE POLICIES AND PROCEDURES CONCERNING HOUSING FOR PERSONS 55 YEARS OF AGE OR OLDER, EACH AND EVERY DWELLING UNIT WITHIN THE PROPERTY, IF OCCUPIED, SHALL BE OCCUPIED BY AT LEAST ONE PERSON 55 YEARS OF AGE OR OLDER. WITHOUT LIMITING THE FOREGOING, AT NO TIME SHALL LESS THAN 80% OF THE OCCUPIED LIVING UNITS SUBJECT TO THIS DECLARATION BE OCCUPIED BY AT LEAST ONE PERSON 55 YEARS OF AGE OR OLDER.

AMENDMENT #1

NOW THEREFORE, the Association hereby adds **ARTICLE X, SECTION 20** of the Declaration with the following:

Section 20. Lease by Owner.

Restrictions. All Owners and Lots shall be subject to the following rental restrictions (“Rental Restrictions”) which are further subject to Section 21 below:

(1) Owner-Occupied Minimum. No Owner shall be allowed to rent or lease their Dwelling Unit until such time as Unit has been Owner-occupied for no less than twelve (12) consecutive months. “Owner-occupied” for purposes of this Section means a Dwelling Unit that is owned by an Owner without a renter or tenant present, whether or not the Owner actually occupies the Unit during this period of time.

AMENDMENT #2

NOW THEREFORE, the Association hereby adds **ARTICLE X, SECTION 21** of the Declaration with the following:

Section 21. Housing for Older Persons.

(1) Age Restriction Imposed. The policies and procedures governing the project as stated herein demonstrate (i) the intent to provide housing for persons 55 years of age or older for all Dwelling Units, and (ii) notwithstanding (i) above, at least 80% of the Dwelling Units shall be occupied by at least one person 55 years of age or older in order to preserve the Association’s Housing for Older People status.

The policies and procedures of the Project are intended to make the project housing for older persons and exempt the Project from regulation under HOPA as provided by Section 3607 thereof. Thus, to this end, all Owners and Residents shall be bound by, and the Association shall manage the project in compliance with, this Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Three Mile Creek Estates Owners’ Association.

(2) Advertising, Marketing and Sales. All advertising, marketing and sales materials or displays of any kind shall reflect that the Project is intended for "housing for older persons." All print ads shall substantially contain the following language: "Three Mile Creek Estates Owners' Association is intended and operated for residents fifty-five (55) years of age or older as defined in the Housing for Older Persons Act also known as "HOPA.""

Any sale shall be in writing and shall (1) provide that the occupancy of the Dwelling Unit shall be subjected to the provisions of the Declaration, the Articles of Incorporation, Bylaws and Rules and Regulations of the Association and; (2) state the following: "Three Mile Creek Estates is intended and operated for residents fifty-five (55) years of age and older as defined in the Housing for Older Persons Act ("HOPA").

(3) Approved Occupancy. The project is intended to be managed for occupancy by persons 55 years of age or older, as set forth in the Act and regulations relating thereto. See 24 C.F.R. §§100.304. To ensure future compliance, the following restrictions apply:

(a) A minimum of 80% of the Dwelling Units shall be occupied by at least one person fifty-five (55) years of age or older. **However, it is intended for EVERY DWELLING UNIT to be occupied by at least one (1) individual person fifty-five (55) years of age or older.**

However, to prevent the disruption of the lives of surviving spouses and permitted cohabitants under the age of fifty-five (55) when the over the age of fifty-five (55) member of the household dies or otherwise leaves the Living Unit, up to twenty (20%) of occupants may be under the age of fifty-five (55) as approved by the Board of the Association.

The Department of Housing of Urban Development (HUD), has indicated in the preamble to its regulations **that so long as the eighty percent (80%) rule is not violated** (that is, 80% of the Dwelling Units are occupied by at least one (1) person age fifty-five (55) or older), occupancy of a Dwelling Unit can be approved, in certain situations. The Board may permit, in its discretion and as deemed necessary, occupancy to those who are not over the age of fifty-five (55) consistent with the policies of the Association and applicable law.

(4) To ensure that the project meets the age requirements for occupants set forth in HOPA, the Board shall verify the ages of the occupants by a written log. A review shall be done upon the adoption of this Amendment and thereafter done in January of every year. New residents of the Association shall have their ages verified and the information placed in a database kept by the Board.

(5) Extreme Hardships. There may be certain occasions when an approved occupant becomes the legal guardian of a person or persons. In such instances, for so long as at least eighty percent 80% of the Dwelling Units have one (1) resident fifty-five (55) years of age or older, hardships may be permitted on terms decided by the Board and based upon the type of hardship.

(6) Exemption for Dwelling Unit #8. The Owner of Dwelling Unit 8, at the time this amendment is adopted, is guaranteed that he/she may sell their unit to their daughter who is

currently living within the Association and is presently under the age of fifty-five (55) years. The Association shall reserve, upon the adoption of this amendment, a portion of the twenty percent (20%) of the Dwelling Units that may be used for this specific Dwelling Unit. Upon the daughter selling the Dwelling Unit, this exemption shall expire.

(7) Applicability. The provisions of this Article shall not apply to prohibit the occupancy of any person presently occupying a Dwelling Unit in the Association before the date of this amendment or prohibit the occupancy by any child born to such occupant while that occupant is a resident of the project, so long as the eighty percent (80%) rule is not violated. Any sale or rental of the Dwelling Unit by such occupant, however, must be in accordance with the provisions of this Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Three Mile Creek Estates, specifically including this Article.

Should this Article be violated, the Association, through the Board of Directors, shall be able to enforce this restriction to protect the interests of the Association and its members, with or without legal action as deemed necessary, and the offending purchaser/owner shall be responsible for all costs and attorney fees associated with said enforcement.

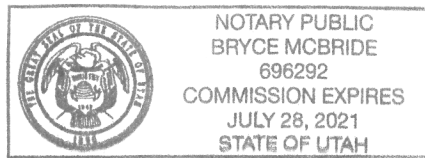
IN WITNESS WHEREOF, THREE MILE CREEK ESTATES OWNERS' ASSOCIATION has executed this Amendment to the Declaration as of the 16 day of APRIL, 2021, in accordance with the Declaration.

THREE MILE CREEK ESTATES OWNERS' ASSOCIATION

Sign: Thomas E Peterson
Print: THOMAS E PETERSON
Its: President

Sign: Gaylene Pebley
Print: Gaylene Pebley
Its: Secretary

STATE OF UTAH)
) : ss
COUNTY OF Box Elder)



On the 16th day of April, 2021, personally appeared before me Thomas Edwin Peterson and Gaylene Sue Pebley who being by me duly sworn did that say that they are the President and Secretary of the Association, and acknowledged said instrument to be their voluntary act and deed.

Bryce McBride
Notary Public

EXHIBIT A

Legal Description

THREE MILE CREEK ESTATES, CHD, PCS, according to the official plat thereof recorded with the office of the Box Elder County Recorder, state of Utah.

Parcel Numbers: 02-072-0001 through 02-072-0020

196

100487 Bk 0653 Pg 0558
Lufan Adams, Box Elder County Recorder
07/25/1997 9:09am FEE: 106.00 Dep:DP
PERRY CITY

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
AND RESERVATION OF EASEMENTS FOR
THREE MILE CREEK ESTATES**

A CLUSTER HOUSING DEVELOPMENT SUBDIVISION

02-027-0001 thru 0020

ABSTRACTED TO 02-072-0001 THROUGH 02-072-0020

THIS DECLARATION, made this 2 day of May, 1997, by
T.M.C. DEVELOPMENT, L.L.C., a Utah Limited Liability Company,
Declarant:

R E C I T A L S:

A. Declarant is the owner of certain property in the County
of Box Elder, State of Utah, which is more particularly described
as follows:

A part of the Northeast Quarter of Section
2, Township 8 North, Range 2 West, Salt Lake
Base and Meridian, described as: Commencing
at the Southerly property corner of Lot 30,
Three Mile Creek Subdivision, No. 2, located
South 00 degrees 00'00" West along the East
line of said Section 1965.65 feet and North
90 degrees 00'00" West 1697.68 feet from the
Northeast Corner of said Section; and
running thence along said subdivision line
the following three courses: (1) North 49
degrees 43'42" East 140.97 feet; (2) North
19 degrees 54'01" West 117.64 feet; (3)
North 21 degrees 08'28" West 73.23 feet;
thence to the left along the arc of a 225.00
foot radius curve a distance of 273.94 feet,
Chord bears North 73 degrees 59'59" East
257.33 feet to the Southeast corner of Lot

100487 # 0653 Pg 0559

28 of said subdivision; thence along the Southeasterly boundary line of said subdivision the following three courses: (1) South 50 degrees 52'46" East 60.00 feet; (2) thence to the left along the arc of a 285.00 foot radius curve a distance of 17.26 feet, Chord bears North 37 degrees 23'07" East 17.26 feet; (3) North 35 degrees 39'00" East 187.08 feet to a point North 35 degrees 39'00" East 15.00 feet from the Southwesterly corner of Lot 2, Block 5, Valley Hie Subdivision, Plat 2 amended; thence South 54 degrees 21'00" East 115.18 feet to the boundary line of said Valley Hie Subdivision, Plat 2, amended; thence along said boundary line the following four (4) courses: (1) North 48 degrees 38'43" East 87.23 feet; (2) South 54 degrees 21'00" East 165.20 feet; (3) North 35 degrees 39'00" East 45.00 feet; (4) South 54 degrees 21'00" East 30.00 feet; thence South 35 degrees 39'00" West 320.90 feet; thence to the left along the arc of a 270.00 foot radius curve a distance of 84.60 feet, Chord bears South 26 degrees 40'25" West 84.25 feet; thence South 17 degrees 41'50" West 150.04 feet; thence North 72 degrees 18'10" West 116.60 feet; thence to the left along the arc of a 120.00 foot radius curve a distance of 76.33 feet, Chord bears South 89 degrees 28'28" West 75.05 feet; thence South 71 degrees 15'05" West 287.59 feet; thence to the right along the arc of a 180.00 foot radius curve a distance of 16.20 feet, Chord bears South 73 degrees 49'47" West 16.20 feet; thence North 18 degrees 44'55" West 167.93 feet to the point of beginning. Containing 6.19 acres.

B. Declarant has deemed it desirable, for the efficient preservation of the values and amenities in the real property described above ("Properties"), to create a non-profit