

**DECLARATION OF PROTECTIVE COVENANTS  
CONDITIONS AND RESTRICTIONS FOR  
EAST MOUNTAIN ESTATES PLAT "D"**

The undersigned is the owner of the real property ("property") in the County of Utah, State of Utah, described as:

EAST MOUNTAIN ESTATES PLAT "D"

The property presently consists of 9 lots which have been recorded (See Exhibit I).

The undersigned has deemed it desirable to provide a general plan for the development of all of the property and for the establishment of covenants upon the property and for the establishment of covenants upon the property for the purpose of enhancing and protecting the value and attractiveness of the property.

Title to all of the lots located within the property may be sold only subject to these protective covenants, conditions and restrictions as set forth below.

The undersigned hereby covenants, agrees and declares that all of the lots and property described above and such additions thereto as may hereafter be made shall be held, sold and conveyed subject to the following covenants, conditions and restrictions which are hereby declared to be for the benefit of all of the property and the owners thereof, their successors and assigns. These covenants, conditions and restrictions shall run with the property and shall be binding upon all parties having or acquiring any right, title or interest in the property or any lot or part thereof and shall inure to the benefit of each owner thereof.

ARTICLE I  
DEFINITIONS

The following terms used in these covenants, conditions, and restrictions shall be applicable to this Declaration and are defined as follows:

Section 1. "Lot" shall mean and refer to a recorded lot within the existing property upon which there has been or will be constructed a single family dwelling.

Section 2. "Owner" shall mean and refer to the record owners, whether one or more persons or entities, of a fee simple title to any lot which is a part of the property, including contract buyers, but excluding those having such interest merely as security for the performance of an obligation.

ARTICLE II

## ARCHITECTURAL CONTROL

Section 1. Building Type. No lot shall be used except for residential and related purposes. No building shall be erected, altered or permitted to remain on any lot other than one (1) single family residence not to exceed two stories in height and a private garage for not less than three nor more than four vehicles. Every single family dwelling shall have a minimum area above ground, not including the garage, of one thousand eight hundred (1,800) square feet for a single level residence, and one thousand five hundred (1,500) square feet for the main floor and one thousand one hundred (1,100) square feet for the second floor of multi-level residences. No log homes, solar homes, or subterranean homes or buildings shall be permitted.

Section 2. Building Location. No building shall be located on any lot nearer to the front lot line or nearer to the side street line than 30 feet. Owners are encouraged to use offsets of greater than 30 feet. No building shall be located nearer than 12 feet to an interior lot line (with an aggregate width of 30 feet) or nearer than 30 feet to the rear lot line.

Section 3. Moving of Structures. No structure of any kind shall be moved from any other place to the property without written approval of the East Mountain Development Committee.

Section 4. Temporary Structures. No trailer, basement, tent, or shack or other outbuilding shall be placed upon or used at any time within the property as a temporary or permanent residence.

Section 5. Completion of Building. When the construction of any residence or other structure is once begun, work thereon must be carried out diligently and completed within sixteen (16) months of the date that site excavation is commenced.

Section 6. Landscaping. Owner shall complete landscaping of all front and side yards facing a street within twelve (12) months after occupancy of the residence.

Section 7. Compliance with Applicable Zoning Ordinances. All structures within the property shall be built, occupied and used in accordance with the provisions of Alpine City Zoning Ordinances relating to Zone CR-20,000.

Section 8. East Mountain Development Committee Approval Required. No building or structure, including, but not limited to, shed, tennis court or swimming pool, shall be erected, remodeled or placed on the property without the prior written approval of the East Mountain Development Committee as to location, height, design and harmony with existing structures and in compliance with the covenants, conditions and restrictions set forth herein.

Section 9. Architectural Guidelines. The following architectural guidelines shall apply to all the lots in the property affected thereby:

- (a) Harmony in Building: Exterior material of all dwellings shall be brick,

stucco, stone, cast stone or other hard-surface material acceptable to the East Mountain Development Committee. The roofing material shall be either wood shingles, architectural-grade composition shingles, or tile roofs approved by the Committee. The use of natural earth tones will be encouraged, along with the use of wood and stone materials.

(b) Detached Accessory Buildings: A detached accessory building may be permitted and shall be subject to all the covenants, conditions, and restrictions imposed by Article II hereof. The detached accessory building shall compliment in design and composition the dwelling placed on the premises and in no event shall such accessory building be permitted with a height greater than the dwelling itself. The design and site plan of such accessory building shall be submitted to the East Mountain Development committee for approval prior to obtaining a building permit and commencing construction of such accessory building.

(c) Retaining Walls: All retaining walls must be approved by the East Mountain Development Committee.

(d) Fences: No privacy fences shall be allowed in front of the dwelling (or in the case of corner lots, on either side facing a street). Chain link fencing of any type, brand or make is not allowed to be constructed on the property except that green chain link fencing for purposes of tennis/basketball courts will be acceptable. The design of fences used to secure private swimming pools and tennis courts shall be submitted to the East Mountain Development for approval prior to such fences being constructed.

(e) Garages and Driveways: Every dwelling must have a minimum of a three (3) car garage and a driveway leading thereto large enough to accommodate two cars parked side-by-side. Vehicle access to garages shall be encouraged by side entrance.

(f) Prohibitions Against Soil Erosion and Runoff. It shall be the responsibility of the property 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 drainage once constructed.

Section 10. Architectural Approval. No building or structure shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure upon the lot have been approved by the East Mountain Development Committee as to quality of workmanship and materials, harmony of external design with existing structures, and elevation. All homes shall be traditional in style; traditional meaning homes with a Colonial, early American, Tudor, or French architecture. Homes with massive use of glass which resembles commercial buildings or ultra-contemporary/modern design, sub-terrestrial windows, and extreme use of wood will be discouraged. Any home with a ultra-contemporary/modern architecture will be discouraged.

The approval or disapproval of any building or structure must be given in writing by the East Mountain Development Committee. All decisions of the East Mountain Development Committee shall be final and neither the East Mountain Development Committee nor its designated representatives shall be subject to any liability thereof. Any errors or omissions in the design of any building or landscaping, or any violations of city or county ordinances are the sole responsibility of the owners and/or their designated architects. The East Mountain Development Committee's review of plans shall in no way be construed as an independent review or opinion of the structural or mechanical adequacy or soundness of the building, and liability thereof. The East Mountain Development Committee in its discretion, shall be empowered to grant reasonable variances from the conditions and restrictions set forth in this Declaration.

### ARTICLE III

#### East Mountain Development Committee

Section 1. Membership. The East Mountain Development Committee (hereinafter "Committee") is comprised of Dan Van Woerkom, James Patterson, and Craig Mortensen. Decisions of the Committee shall be by majority vote, and a majority of the Committee may designate a representative to act for it. The Committee may fill vacancies in the Committee and remove members thereof in its discretion; provided, however, that when ninety percent (90%) of the land comprising the saleable property has been sold (either by deed or under contract of sale), then thereafter, upon designation by eighty percent of those who are owners (either in fee or by contract of purchase) of land comprising the property, of some person or persons whom such owners desire to make a member of said committee, the undersigned will appoint such person or persons to the Committee, and if necessary, will remove from said Committee existing members in order to create vacancies for the new appointments; provided further, however, that one person designated by the Undersigned shall always remain a member of said Committee if the Undersigned so desires. The functions of the Committee shall be, in addition to the functions set forth elsewhere in this Declaration, to pass upon, approve or reject any plans or specifications for structures to be erected on lots within the property, so that all structures shall conform to the restrictions and general plans of the Undersigned, and of the Committee, for the improvement and development of the entire property. Nothing in this paragraph shall be construed as authorizing or empowering the Committee to change or waive any restrictions which are set forth in this Declaration except as herein specifically provided. The Committee may act by any two of its members, and any authorization, approval or power made by the Committee must be in writing signed by at least two members.

Section 2. Enforcement. The Committee or any owner or the successor in interest of any owner shall have the right to enforce by proceedings at law or in equity all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or any amendment thereto, including, but not limited to, the right to prevent the violation of any such restrictions, conditions, covenants or reservations and the right to recover damages for such violation.

### ARTICLE IV

#### GENERAL PROVISIONS

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

Section 2. Nuisances. No noxious or offensive activity shall be carried on upon any of the property, nor shall anything be done thereon which may be or may become an annoyance or nuisance t the neighborhood. No storage of any articles which are unsightly in the opinion of the East Mountain Development Committee will be permitted on or about the premises unless in enclosed areas built and designed for such purposes or otherwise kept out of view from the street. No automobiles, campers, motor homes, trailers, boats or other vehicles are to be stored on streets of front and side yards, only on a temporary basis and provided they are in running condition and properly licensed.

Section 3. Garbage and Refuse Disposal. The property shall not be used or maintained as a dumping ground for rubbish, trash, garbage or other waste, which shall not be kept except in sanitary containers. All refuse containers shall be kept in clean and sanitary condition. No unsightly material or objects are to be stored on any of the property in view of the general public.

Section 4. Horses; Other Livestock. Neither horses nor other livestock shall be kept on the property.

Section 5. Satellite Dishes, Other Structures. Stand-alone satellite dishes, statues, fountains, and other similar items must be submitted for approval by the Box Elder Development Committee.

Section 6. Construction Activities; Clean Up; Owner Liability; Cash Deposit. Each owner shall be fully responsible for clean up of all construction materials, debris, and refuse on the property resulting from construction activities undertaken with respect to his lot. Furthermore, each owner shall be liable for damages to curbs, gutters, drainage systems, and other common areas and to adjoining lots resulting from his acts or the acts of his contractors and workmen in performing construction activities on his lot. To cover potential damages resulting from construction activities undertaken with respect to his lot, each owner is required to make a cash deposit in the amount of \$1,000.00 with the East Mountain Development Committee at the time his plans are approved and the building permit issues. If no damages result from construction activities undertaken with respect to his lot, the cash deposit will be returned to him upon issuance of the Certificate of Occupancy.

Section 7. Severability. Invalidation of any one of these covenants, conditions

or restrictions by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

Section 8.      Fire Protection.    Due to the potential for brush fire on land surrounding the Subdivision, owners are encouraged to consider sprinkler and other fire retardant systems and to use fire resistant materials in construction.

Section 9.      No Recourse.    The protective covenants, conditions and restrictions set forth in this Declaration, together with the Box Elder Development Committee, are established for the benefit of the East Mountain Subdivision Plat "D". Any damage, loss, claim or liability which might arise due to any decision, act, or failure to act of the Committee or any of its members shall be exempt from any civil claim or action brought by any signatories of this Declaration, or by any person owning or having an interest in any lot or property within the subdivision. The Committee and its members shall be held harmless from any such action or failure to act, and exempt from any civil claim or action resulting from any act or failure to act (whether intended or implied) while functioning as a member of the Committee or for decisions that they may render during the course of their service.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

**Citadel Development, L.C.**

\_\_\_\_\_  
Daniel F. Van Woerkom, Manager

State of Utah            )  
                                  ss:  
County of Utah         )

On the \_\_\_\_\_ day of \_\_\_\_\_, 2005, personally appeared before me Daniel F. Van Woerkom, who is manager of Citadel Development, L.C., who being by me first duly sworn did say that he executed the foregoing instrument in behalf of Citadel Development, L.C. pursuant to authority vested in him.

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Notary Public