

**Protective Covenants and Declaration of
Building and Use Restrictions of the
North Creek Ranch Homeowners Association, Inc.**

KNOWN ALL MEN BY THESE PRESENTS: that Phillip C. Jolley & Collette Jolley, Trustees of The Phillip C. Jolley and Collette Jolley Family Trust, Dated August 25, 1997, (hereinafter referred to as "Declarant"), is the owner of all the described real property located in Beaver County, State of Utah, and more particularly described in Exhibit "A" attached hereto and made a part hereof;

WHEREAS, certain covenants and building and use restrictions must be established and observed to insure harmonious relationships; protect property values, eliminate hazardous conditions, and preserve the natural beauty of the area; and

WHEREAS, Declarant intends or has the right to annex additional lands whose owners will become subject to all rights, powers, privileges, covenants, restrictions, easements, charges and liens hereafter set forth; and

WHEREAS, Declarant desires these Protective Covenants and Declaration of Building and Use Restrictions of the North Creek Ranch Homeowners Association, Inc. to apply to the property described in Exhibit "A"; and

NOW, THEREFORE, said Declarant for itself, its successors and assigns hereby declare that all of the property described above is held and shall be held, conveyed, hypothecated, or encumbered, leased, rented, used, occupied and improved subject to the following limitations, restrictions and covenants, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of the property, the enhancing and protecting of the value, desirability and attractiveness of the lands and every part thereof, which shall constitute covenants running with the land. The acceptance of any deed or conveyance thereof by the Grantee or Grantees therein, and their heirs, executors, administrators, successors and assigns, shall constitute their covenant and agreement with the undersigned and with each other, to accept and hold the property described or conveyed in or by such deed or conveyance, subject to said covenants and restrictions, as follows, to wit:

ARTICLE I - GENERAL RESTRICTIONS

Section 1. Architectural Control. No building shall be erected, altered, placed or permitted to remain on any lot without prior approval of plans and specifications therefor by the Architectural Control Committee (hereinafter referred to as "ACC"). Said plans and specifications shall show location of structures on the lot, materials to be used, external design and location with respect to topography and finish grade elevation.

Section 2. Site Development. No structure, planting or other material shall be placed or permitted to remain which may damage or interfere with or change the direction of flow of drainage channels, which may obstruct or retard the flow of water through drainage channels and should remain undisturbed as much as reasonably possible. The entire landscape plan shall have the approval of the ACC including the foundation/pad site locations of structures or buildings and driveways/roads

Section 3. Dwelling Size and Building Type. No primary single-family dwelling shall be less than one thousand two hundred (1,200) square feet in size on the main level, exclusive of garages. With the exception of one guesthouse, no more than one detached single-family dwelling, not to exceed two stories in height excluding basement, which may be "walk out" style, shall be permitted on any five (5) acre lot. Natural wood, logs, brick, stucco, rock and metal are the recommended building materials. Aluminum and manufactured wood products are allowed for soffit, flashing, rain gutters, doors, windows and roofs and shall not exceed 50% of the exterior wall surface. Roofs should be earth tone or forest colors; orange, white and other bright colored roof material is not allowed. Homes must be site-built and no dome or geodesic roof design homes shall be permitted. In those instances where the guest home is built before the primary dwelling, the guest home must be built to the size and standards of the primary dwelling. The ACC must approve any exception in writing.

Section 4. Outbuildings. Any outbuildings shall be subject to the design and material approval of the ACC. Barns and/or outbuildings shall be restricted to height limitations of two stories.

Section 5. Roads and Easements. North Creek Ranch is located in a remote area and at times the roads and access may be limited or impassable due to mud, snow or erosion. All accesses from dedicated roads shall have a minimum of an 18" culvert in barrow ditches. The private roads and easement areas of each lot 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. A lot owner desiring access to their lot may be required to arrange, at their own cost, to have the road plowed, graded or cleared in order to access their lot. Lot owners shall cooperate with any requirements or signatures, if any, required of the lot owners by Beaver County in order to dedicate private roads in the subdivision so they can become county maintained public roads. Lot owners shall sign and return required documents for dedication within thirty (30) days after they receive delivery of said documents.

Section 6. Transmission Lines. Above ground transmission lines shall be located along public roadways or rights of way. All transmission lines for telephone, power and other utilities installed to service the individual owner's property, dwelling, guesthouse or outbuildings shall be constructed underground.

Section 7. Nuisances. Automobiles, trailers, boats or other vehicles and machinery are not to be stored outside within plain sight of adjacent properties or roadways unless they are in running condition and are being regularly used. All trash, refuse, garbage, waste materials, unused building supplies, and other similar materials shall remain covered and/or out of sight.

Section 8. Temporary and Other Structures. No structure of a temporary nature, trailer, bus, basement of unfinished house, tent, shack, garage, barn or other outbuilding shall be used at any time as a permanent residence, (*this is not intended to exclude a party visiting and has accompanying with them a travel trailer, recreational vehicle or tent which shall thereafter be removed from the property at the end of the visit*). No older or second-hand structures shall be moved onto any said lots; it being the intention hereof that all dwellings and other buildings to be erected on said lots or within said subdivisions, shall be of new construction and of good quality, workmanship and materials. However, in the event an owner desires to reside in a mobile home, recreational vehicle or motor home on his lot during the course of construction of the primary residence not to exceed one (1) year, the ACC may authorize the same. In the event an owner desires to temporarily use a motor home or recreational vehicle for a summer residence, he may reside between the months of April and November.

Section 9. Building Completion. All houses and buildings shall be completed for occupancy no later than eighteen (18) months subsequent to the date of issuance of the building permit.

Section 10. Walls, Fences, and Hedges. All walls and fences shall be kept in good repair. Acceptable fencing materials, which may be utilized, are split rail, lodge pole, vinyl, steel fencing, and barbwire. All owners shall construct and maintain an agricultural fence in such a manner as to adequately secure their agricultural animals. If desired, it shall be the lot owner's responsibility to fence out livestock and wildlife grazing from surrounding private and public rangeland.

Section 11. Garbage and Refusal Disposal. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, rubbish or other waste shall 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 road are to be kept free of trash and other refuse by the lot owner. No unsightly material or other objects are to be stored on any lot in view of the general public.

Section 12. Water Supply. Prior to connecting to the Waterworks System, the owner of a lot shall sign a Utility and Service Agreement with the North Creek Ranch Homeowners Association, Inc. and pay the required cost or fees as provided in such agreement. No individual water supply system shall be used unless such system is

located, constructed and equipped in accordance with the requirements, standards, recommendations, and approvals of the Utah State Health Department Engineer and/or county officials.

Section 13. Fire Hazards. The Waterworks System does NOT include the capacity for fire protection and there are NOT any fire hydrants connected to the well and water mains serving the property nor are there any fire hydrants in the vicinity of the lots in North Creek Ranch. Spark arresters shall be installed on all chimneys or fireplaces.

ARTICLE II - LAND USE

Section 1. Livestock and Animals. All animals and pets shall be strictly controlled. Maximum number of animals and fowl allowed shall be limited to Beaver County zoning ordinances. No pigs or mink shall be maintained on any lot. All animals, when unattended, shall be kept within the confines of the owner's property. All corrals, stables, kennels and barns must be maintained in sanitary condition and both odor and noise shall be strictly controlled and shall not be allowed to disturb the quiet enjoyment of the surrounding homeowners.

ARTICLE III - ASSESSMENTS AND FEES

Section 1. Utilities and Services. The North Creek Ranch Homeowners Association, Inc. (hereafter referred to as "Association") intends to provide water services to the lot owners and may provide other utilities and services that may be desired by the lot owners.

Section 2. Assessments and Fees. In order to provide utilities and services it will be necessary to make assessments from time to time and to charge fees for services provided together with fines and penalties for necessary collection procedures. Such assessments, fees, fines and penalties, rates and charges, the time and manor of collection and rules and regulations for the use of the utilities and services provided shall be adopted by the Board of Directors of the Association

Section 3. Lien. The Association shall have a lien against each lot owners property to secure payment of any assessment, fee, fine, penalty or other amount due and owing to the corporation with respect to the member, owner of such property, or with respect to owner's guests, plus interest from the date due and payable plus all costs and expenses of collecting the unpaid amount, including reasonable attorney's fees. The lien may be foreclosed in the same manner for foreclosure of a Trust Deed by the laws of the State of Utah (Title 38.2.4). Liens created by the Association shall be subordinate to any bona fide mortgage or trust deed liens placed on member's property.

Section 4. Liability of Owners. The amount of any assessment, fee, fine, penalty or other amount due and owing with respect to any owner or owner's guests shall be a

joint and several obligation to the corporation of such owner, and such owner's heirs, personal representatives, successors and assigns. A party acquiring any interest in the property subject to the corporation shall be jointly and severally liable with the former owner of the property for all such amounts which had accrued and were payable at the time of the acquisition of the interest in the property by such party without prejudice to such party's right to recover any of said amounts paid from the former owner. Each such amount, together with interest thereon, costs and reasonable attorneys fees may be recovered by suit for a money judgment by the Association without foreclosing or waiving any lien securing the same.

ARTICLE IV - DURATION, ENFORCEMENT, AMENDMENT

Section 1. Duration of Covenants. All of the conditions, covenants and reservations set forth in this declaration of restrictions shall continue and remain in full force and effect at all times against said property or any expansions thereto and the owners thereof, subject to the right of change or modification provided for in Article IX, Section 2 of the By-Laws of Association

Section 2. Enforcement. Each and all of said conditions, covenants and reservations is and are for the benefit of each owner of land (or any interest therein), in said property or expanded property and they and each thereof shall inure to and pass with each and every parcel of said property whether subdivided or otherwise, and shall apply to and bind the respective successors in interest of said Declarant. Each Grantee of the Declarant of any part or portion of said property by acceptance of deed incorporating the substance of this declaration either by setting it forth or by reference therein, accepts the same, subject to all of such restrictions, conditions, covenants and reservation. As to each lot owner, the said restrictions, conditions and covenants shall be covenants of equitable servitude and the breach of any thereof, and the continuance of such breach may be enjoined, abated or remedied by appropriate proceedings at law or in equity by any such owner of other lots or parcels in said property or by the ACC or the Declarant. No such breach shall affect or impair the lien of any bona fide mortgage or deed of trust which shall have been given in good faith, and or value; provided, however, that any subsequent owner of said property shall be bound by said conditions and covenants, whether obtained by foreclosure or at a trustee's sale or otherwise.

Section 3. Damage. Any damage inflicted on existing improvements such as utility corridors, drainage ditches along roadways, etc., by the purchaser or owner, and/or their agents, of any particular lot, must be repaired or the expense of such repair must be borne by the purchaser or owner at his own expense.

Section 4. Violation Constitutes Nuisance. Every act or omission, whereby any restriction, condition or covenant in this declaration set forth, if violated in whole or in part, is declared to be and shall constitute a nuisance, and may be abated by Declarant or its successors in interest and/or by any lot owner or by the ACC; and such remedy

shall be deemed cumulative and not exclusive.

Section 5. Construction and Validity of Restrictions. All of said conditions, covenants and reservations contained in this declaration shall be construed together, but if it shall at any time be held that any one of said conditions, covenants or reservations, or any part thereof, is invalid, or for any reason becomes unenforceable, no other condition, covenant or reservation, or any part thereof, shall be thereby affected or impaired, and the Declarant and Grantees, their successors, heirs, and/or assigns shall be bound by each article, section, subsection, paragraph, sentence, clause and phrase of this declaration, irrespective of the fact that any article, section, subsection, paragraph, sentence, clause or phrase be declared invalid or inoperative or for any reason becomes unenforceable.

Section 6. Right to Enforce. The provisions contained in this declaration shall bind and inure to the benefit of and be enforceable by Declarant, by the owner or owners of any lot or portion of said property, their legal representatives, heirs, successors and assigns, or the ACC and failure by Declarant, by the owner or owners of any lot or portion of said property, their legal representatives, heirs, successors and/or assigns, or the ACC to enforce any of said restrictions, conditions, covenants or reservations shall in no event be deemed a waiver of the right to do so thereafter.

Section 7. Architectural Control Committee. The ACC which is vested with the powers described herein shall consist of such number of persons appointed in accordance with Article IX, Section 3 of the By-Laws of Association, who shall be appointed in accordance with that same section. No property owner shall apply for a building permit from Beaver County until having first obtained written approval from the ACC. Prior to the commencement of any excavations, construction or remodeling or adding to any structure theretofore completed, there shall first be filed with the ACC three (3) sets of building plans and specifications therefore, together with a site plan including landscape plan. Said work shall not commence unless the ACC shall endorse said plans as being in compliance with these covenants and are otherwise approved by the ACC, which shall not be unreasonably withheld. The ACC shall have the right to refuse to approve any such plans and specifications, which violate in whole or in part any restriction, condition or covenant set forth in this declaration. One set of plans shall be filed as a permanent record with the ACC. Two sets will be returned to the Property Owner for their use in submitting to the county and for their records. In the event ACC fails to approve or disapprove in writing said plans within thirty (30) days after their submission, then said approval shall not be required.

Section 8. Assignment of Powers. Any and all rights and powers of the Declarant herein contained may be delegated, transferred or assigned. Wherever the term "Declarant" is used herein, it includes assigns or successors in interest of the Declarant.

Section 9. Expansion of Project. The total number of existing and future lots planned

for the Association is 87 lots with each lot approximating 5 acres. Declarant reserves the right to itself or its assigns to add additional phases to the project, without approval of lot owners on property, that it now owns and is described in Article VII, Section 2 of the By-Laws of Association. In making such addition, Declarant reserves the right to place such other covenants on the additional property, as Declarant may deem appropriate in accordance with the By-Laws of Association. Declarant may at his option expand all utilities and services as provided in the By-Laws of Association. Lot owners agree that in the future, Declarant and other lot owners may desire to change existing zoning of land owned by the Declarant or lot owners to allow for additional 5-acre lots. Lot owners agree not to object to future zone changes, subdivisions and developments of lots approximating 5-acres or larger for land owned by the Declarant or other lot owners.

The Protective Covenants and Declaration of Building and Use Restrictions of the North Creek Ranch Homeowners Association, Inc. are adopted this ____ day of _____ 200_.

DECLARANT:

The Phillip C. Jolley and Collette Jolley Family Trust

Phillip C. Jolley, Trustee

Collette Jolley, Trustee

STATE OF UTAH)
 ss
COUNTY OF BEAVER)

On this ____ day of _____, 200_, personally appeared before me PHILLIP C. JOLLEY and COLLETTE JOLLEY, Trustees of The Phillip C. Jolley and Collette Jolley Family Trust, Dated August 25, 1997, being the Owner of the Property identified above, who acknowledge to me that they executed the above and foregoing instrument for and in behalf of said Trust.

NOTARY PUBLIC