# DECLARATION OF COVENANTS

# OF

# EAGLEWOOD ESTATE SINGLE FAMILY RESIDENCE

# PHASE ONE

THESE DECLARATIONS, are made June 23, 2003, by Eaglewood Enterprises, L.L.C. hereinafter referred to as the "Declarant,"

## WITNESSETH

WHEREAS, Declarant is the owner of the following parcel of real property situated in Madison County, City of Rexburg, State of Idaho, described as follows:

Eaglewood Estate Subdivision, Block 1, Lots 1-6; Block 2, Lots 1-24, excluding Lot 4; Block 3, Lots 1-5; Block 4, Lots 1-4;

Excluding, Eaglewood Estate Subdivision Townhouse Unit, Block 1, Lots 7-18, each being divided into A-B portions.

WHEREAS, Declarant intends to impose reasonable protective covenants for and upon Phase One of a the Eaglewood Estate Single Family Residential Subdivision ["Eaglewood" or "Property" or "Subdivision"] for the mutual benefit of all single family residence owners, present and future. These Declarations apply only to the Eaglewood Estate Single Family Residences.

NOW, THEREFORE, Declarant hereby declares as follows:

## ARTICLE I
## DEFINITIONS

1.1 "Building Lot" the term "Building Lot" shall mean and refer to any Single Family Residential Lot shown on the Eaglewood Subdivision Phase One recorded Plat. Eaglewood Townehouses are NOT subject to these Covenants.

1.2 "Declarant" or "Grantor" shall mean and refer to the Eaglewood Enterprises, L.L.C., a Utah Limited Liability Company or its successors and assigns.

**Instrument # 304975**
REXBURG, MADISON, IDAHO
2003-07-07 04:27:00 No. of Pages: 9
Recorded for : FIRST AMERICAN TITLE COMPANY
MARILYN R. RASMUSSEN Fee: 27.00
Ex-Officio Recorder Deputy

1.3 "Detached Structure" shall mean any roofed structure with permanent supporting walls or pillars on any Lot, which is detached from and not structurally connected to the Unit.

1.4 "Improvement" shall mean any structure, facility or system, or other improvement or object, which is erected, constructed or placed upon, any Lot or in any portion of the Property, including, but not limited to buildings, fences, driveways, sidewalks, and curbs, landscaping, signs, lights, mailboxes, structures or other facilities and fixtures of any kind whatsoever.

1.5 "Lot" shall mean and refer to an Eaglewood Estate Single Family Residential Building Lot.

1.6 "Owner" shall mean and refer to the record Owner, whether one or more persons or entities of a Lot, but excluding those having such interest merely as security for the performance of an obligation.

1.7 "Plat" shall mean the recorded Plat of Eaglewood Subdivision, and any other recorded Plat pertaining to the real property described above. The Plat and the specifications are incorporated into these Declarations by reference.

1.8 "Set Back" shall mean the minimum distance between the dwelling unit or other structure referred to and a given street, road or Lot line.

1.9 "Unit" shall mean the single residential dwelling situated upon a Lot.

## ARTICLE II
## COVENANTS APPLICABLE TO REAL PROPERTY

2.1 Contractor. All residential homes shall be built by a professional and qualified General Contractor approved in writing and in advance by the Architectural Control Committee ["Committee"]. The Committee may request a General Contractor submit a written summary of construction experience and qualification. The General Contractor shall be solely responsible for obtaining all necessary permits, licenses and approvals required by the City of Rexburg and the State of Idaho. The approved General Contractor and Lot Owner shall only make such improvements as are provided in the Approved Plans, consistent with this Declaration, Rexburg City permits, zoning and ordinances.

2.2 Plans and Design. Prior to any approval or the commencement of any construction, the Committee shall be furnished a completed set of building plans, including a site plan, exterior elevations and building specifications. In order to establish and maintain aesthetic standards, consistent with these Declarations, the

Committee is hereby granted full power and authority to approve or to disapprove submitted plans or designs. The Approval of Plans shall be in writing and bear an "Approved Plan" stamp.

2.3 Building Location and Set Backs. NO structural improvement shall be constructed on any Lot with a roof "drip-line" being closer than twenty-five (25) feet from either the front or the back Lot property boundary line. In no event shall any structure be built closer than thirty-seven feet (37') from the street gutter curb edge.

Further, NO structural improvement shall be constructed closer than ten (10) feet from any side or adjoining Lot.

For the purposes of this covenant, garages, uncovered steps, porches and patios are considered part of the building structure.

2.4 Easements. Easements for the installation and maintenance of utilities such as electric power, street lighting, telephone lines, gas lines, water lines, sewer lines and drainage facilities are reserved on the Plat by the City of Rexburg and utility providers. The easement area of each Lot and all improvements shall be continuously maintained by the Lot Owner.

2.5 Dwelling Quality and Size. It is the intention and purpose of these covenants to insure that all dwellings within Eaglewood shall be of a consistently high quality of workmanship and materials. Accordingly, all Units shall be of a "stick built" or frame construction type or an alternate construction system approved in writing by the Architectural Committee. Mobile homes, manufactured housing, modular homes, log, log siding homes and temporary structures or enclosed, detached outbuildings are specifically NOT PERMITTED.

Further, the size and quality of each Single Family Residential Unit in Eaglewood is an ESSENTIAL PART of these Covenants. PLEASE READ CAREFULLY:

A) Residential Dwelling Size.

(1) For a **single-story home** (with or without basement), exclusive of open porches and garages, the ground floor shall not be less than 1800 square feet of finished area.

(2) For a **split-level home**, the combined finished area of the top and next to the top level, exclusive of open porches and garages shall not be less than 1800 square feet.

(3) For a **split-entry home**, the combined finished area of the ground and top levels shall not be less than 3300 square feet. The ground floor living space shall not be less than 1100 square feet.

(4) For a **two-story home**, the combined finished area of the two top levels shall not be less than 2600 square feet with 1200 square feet on the ground floor.

B) Garage. Each Unit must have at a minimum size (24' x 24') two (2) car fully enclosed garage, which shall be attached to the residential structure. Carports are NOT PERMITTED.

C) Completion: Each Unit shall be fully constructed and landscaped within 24 months after the date of purchase closing.

D) Exterior Surface Requirement. Fifty percent (50%) or more of the total exterior with seventy five percent (75%) of the Unit's street frontage exterior elevation shall be faced or covered with either brick or stone, stucco or an alternative product subject to the Architectural Committee's discretionary, prior and written approval. All remaining exterior surfaces shall be "maintenance free" material. NO painted siding will be permitted.

E) Roofing. All roofing must be of composition or shake shingle, unless otherwise approved in writing by the Committee. Without limiting the foregoing, no roof covering of a metal substance shall be allowed unless a prior written exception is granted by the Committee. Any approved metal roof covering shall be textured to such a degree as to have the appearance of roof shingles or tiles.

F) Color. Dominant exterior Unit colors must be natural "earth tones".

2.6 Nuisances and Hazardous Activities. 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.

2.7 Home Business. PRIOR to applying to the City of Rexburg for a conditional use permit for a home occupation or business, an Owner must fully disclose and present the Architectural Committee a written request for approval to conduct any home business. Generally, home retail and other business operations are discouraged and NOT PERMITTED.

2.8 No Temporary Structures. NO structure of a temporary character, trailer, basement house, tent, shack, garage, storage barn or other outbuilding shall be placed or used on any Lot at any time for any purpose.

2.9 No Sheds or Other Outbuildings. NO sheds or other outbuildings of any type or structure may be constructed or installed on any Lot, without the Architectural Committee's prior written consent.

2.10 No Rentals. NO basement apartments or other portions of the dwelling may be used or leased for rentals. Eaglewood Estates is zoned "LDR", City of Rexburg.

2.11 No Signs. Except for the Declarant's sales promotion signage, NO advertising signs of any kind shall be displayed to the public view on any Lots. Except, one (1) sign per Lot is permitted if not more than ten (10) square feet advertising the property for sale, or sign used by the builder, or Declarant, to advertise the Eaglewood Subdivision.

2.12 Antennae and Satellite Receivers. NO television antennae, satellite receiver, radio tower, or radio aerial shall be installed on any Lot, unless prior written approval has been secured from the Architectural Control Committee as to both location and size.

A small satellite receiver dish may be permitted and shall be mounted on the back or rear Unit elevation. Any other mounting shall require prior written approval from the Architectural Committee. Approved receivers shall be mounted out-of-sight to the degree reasonably possible and must be mounted no higher than the eave-line of the roof. If an approved receiver is pole-mounted, the pole height shall not exceed six (6) feet.

2.13 Animals. Generally, NO animals or fowl shall be kept on any Eaglewood Lot. Provided, however, family dogs, cats, or other household pets may be kept, provided they are NOT kept or maintained for commercial or breeding purposes.

2.14 Garbage and Waste Material. NO Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, and other waste. All waste will be kept in sanitary containers, which shall be set out only on removal days established by Rexburg City. NO trash, construction debris, rock, refuse pile, junked or inoperable vehicles, underbrush, compost piles or other unsightly growth or objects shall be placed, dumped or allowed to accumulate or remain on any Lot. Street areas shall be kept free of mud and debris. During construction, frequent efforts shall be made by the Lot Owner and contractor to dispose of any scrap materials and construction debris.

2.15 Fences. The Committee shall have the right to approve the material, the location, and the height of boundary fences within Eaglewood. NO chain link or slated chain link or wood fence shall be permitted. NO fence or retaining wall shall be erected that does not have a pleasing appearance from both sides. As much as practically possible, all fences shall be "maintenance free".

2.16 Compliance with the Covenants, Codes and Environmental Laws. In all cases, the responsibility for complying with this Declaration of Covenants and all statutes, ordinances, rules and regulations of federal, state, and local government, including those relating to hazardous waste, rests with the Lot Owner and contractor employed by the Lot Owner. The Owner of each Lot shall hold the Committee and Declarant harmless in the event of Owner's failure to comply with any such laws or this Declaration of Covenants.

2.17 Landscaping. Landscaping the exterior of each residence shall be created, installed and maintained in a pleasing manner. Landscaping shall be generally compatible with adjoining properties. Landscaping shall include a buried automatic water sprinkler system. Seasonal weather permitting, landscaping shall be substantially completed within four (4) months of occupancy of the dwelling. NO line rows of poplar trees or similar high growth wind barrier trees shall be allowed on any Lot without the prior written approval of the Architectural Committee, and all adjoining Lots.

The front yard landscaping for each Eaglewood Units shall include one (1) tree with a planted caliper of 1½ inches.

2.18 Vacant Lots. Vacant Lots must be regularly maintained by the Lot Owner in a clean and neat appearance. Rexburg City or the Committee may remove offending weeds if not done by homeowner, which will be charged to the Owner at One Hundred Twenty-five Percent (125%) of the actual cost of removal.

2.19 Storage. Vehicles, recreational vehicles, boats, trailers and similar personal property shall NOT be stored on any Lot or parked on any street for more than forty-eight (48) hours.

Notwithstanding the foregoing, a boat, camper, trailer or recreational vehicle, which is in good repair and working order, may be stored on the side yard of a Lot between the front and rear yard setbacks if screened by a six foot (6') decorative fence. Provided, however, such storage may not be located adjacent to the street on a corner Lot. Any storage pad must be surfaced with concrete or asphalt.

## ARTICLE III
## LOT ASSESSMENTS

3.1 Annual Assessments.

A) Initial Assessments. Except for the Declarant, each Eaglewood Estate Single Family Residential Owner shall pay at the time of closing on the lot, an initial assessment of One Hundred Dollars ($100.00), to the Eaglewood Townehouse Homeowners Association for Common Area maintenance expenses.

Provided, further, that Eaglewood Estate Single Family Owners are NOT members of the Eaglewood Townehouse Homeowners Association and have NO voting rights.

B) Annual Regular Assessments. The amount of the annual assessment, to be assesses to the Lot Owner, shall be One Hundred Dollars ($100.00) per lot per year, due January 15 of each year.

C) Any assessment not paid by May 1st, shall bear a penalty of $25.00 per month until paid. The Homeowners Association shall have and may record an Assessment Lien against any delinquent lot after one (1) year.

D) Assessments will be used for maintenance, repair, replacement and beautification of any landscaping, fencing, or other maintenance located on and around the entrance signs, designated pedestrian walkways or common areas.

E) Upon transfer of title of any lot to a new owner, buyer and seller will prorate any assessments between themselves. No refunds will be received from the Homeowners Association.

## ARTICLE IV
## EAGLEWOOD SUBDIVISION
## ARCHITECTURAL CONTROL COMMITTEE

4.1 Membership. The Architectural Control Committee shall be composed of a minimum of three (3) or more members. The original Committee shall consist of a minimum of three (3) members selected by the Declarant. Decisions to be made by the Committee hereunder shall be made by a majority of the Committee. A majority of the Committee may designate and authorize a Representative. Neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this Declaration of Covenants.

After all Lots within Eaglewood, (including any subsequent subdivision phases), are sold, then the record Owners of a sixty percent (60%) Lots shall have the power, through a duly recorded written instrument, to change the membership of the Committee.

4.2 Modification of Covenants and Rules. The Committee may make modifications to these covenants and rules as may be reasonable and consistent with the provisions of this Declaration of Covenants. Such changes must be made in writing, and a record of the written vote on said changes, must be submitted to the Committee.

## ARTICLE V
## GENERAL PROVISIONS

5.1 Initial Term and Extension of Term. These Covenants and Restrictions shall "run with the land" and shall be binding upon all parties and all persons claiming under them for a period of twenty (20) years from the date these Covenants are recorded. Thereafter, these Covenants shall be automatically extended for three (3) successive periods of ten (10) years unless a sixty percent (60%) majority of the then Owners vote and record a written amendment.

5.2 Enforcement. The Lots shall be held, sold, and conveyed subject to the easements, covenants, conditions and restrictions set forth herein, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of Eaglewood Estates and the separate Lots.

Enforcement of these Covenants may be by proceedings at law or equity against any person or persons violating or attempting to violate any covenant, either to restrain violations or to recover damages.

NO Lot shall be resold without fully disclosing and delivering a copy of this Declaration of Covenants prior to and at the real property closing.

5.3 Notice. Any notice required hereunder shall be deemed effective when personally delivered; or, when mailed by means of the United States Postal Service Certified Mail to the owner of public record at the time of such mailing to such Owner's address as it appears on the Madison County, Idaho Tax Records.

5.4 Amendments. These covenants can be amended by a seventy percent (70%) majority vote of all Single Family Residential Lot Owners including the Declarant.

5.5 Severability. Invalidation of any one of these covenants shall not affect the other provisions, which shall remain in full force and effect.

5.6 Release of Declarant: These Covenants are created to provide common building standards for the use and benefit of individual property owners. Upon the purchase of an Eaglewood Estate Lot the Owner does thereby RELEASE, DISCHARGE AND ACQUIT the Declarant from any claim or liability whatsoever arising from or relating to this Declaration of Covenants.

"DECLARANT"
EAGLEWOOD ENTERPRISES, A LIMITED LIABILITY COMPANY

By: _____
Bruce C. Alder, President
Alder Construction, Inc., Member

By: _____
Steven F. Lowe, Manager for
Camden, L.C., Member

STATE OF IDAHO )
:ss
County of Madison )

I, _____, a Notary Public, do hereby certify that on June 23, 2003 personally appeared before me, Bruce C. Alder President of Alder Construction, Inc., and Steven F. Lowe of Camden, L.C., as the Members of Eaglewood Enterprises LLC, who executed this Declaration of Covenants.