

**DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS,  
AND RESTRICTIONS FOR CANYON RIM ESTATES SUBDIVISION  
TOOELE, UTAH**

This Declaration of Covenants, Conditions, and Restrictions (hereinafter referred to as the "Declaration"), is made and executed as of the 15th day of September, 1997, by Canyon Rim, L.L.C., ("Declarant"); in contemplation of the following facts and circumstances:

A. Declarant is the fee title owner of certain real property situated in Tooele City, Tooele County, State of Utah, upon which real property the Declarant intends to develop a Subdivision, and which is more particularly described as follows:

(SEE EXHIBIT "A" ATTACHED)

B. Declarant intends to develop and convey all of the Lots contained in the Subdivision pursuant to a general plan and subject to certain protective covenants, conditions, restrictions, reservations, easements, equitable servitudes, liens, and charges, all running with the title to said Lots, as hereinafter set forth.

THEREFORE, to further the general purposes herein expressed, Declarant for itself, its successors and assigns, hereby declares that all of the lots (property) shall at all times, be owned, held, used, and occupied subject to the provisions of this declaration and subject to the covenants, conditions, and restrictions herein contained and the easements herein reserved or granted.

**1. OWNERS BOUND BY COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS**

1.1 **Each Owner Bound by Terms of Declaration.** Each Owner, by acceptance of a deed to a Lot, is deemed to have read and agreed to be bound by the terms and conditions of this Declaration.

1.2 **Tooele City Restrictions.** Unless further restricted by this Declaration, each Owner also agrees that all uses including any construction on his or her Lot will conform to Tooele City's Sensitive Area Overlay and R1-12 Zoning Regulations as they apply to this Subdivision.

**2. DEVELOPMENT REQUIREMENTS**

2.1 **Purpose.** In order to: (a) create an atmosphere that will give honor and reverence to the Pioneer Heritage of this area, (b) create, maintain, and improve the Subdivision as a pleasant and desirable environment, (c) establish and preserve a harmonious design for the community, (d) approve the exterior design of all improvements constructed and changes or alterations to existing uses within the Subdivision, (e) protect and promote the value of the Subdivision, and (f) establish procedures for the enforcement of the terms and conditions of this Declaration, all development activity shall be subject to the prior review and approval of the Architectural Control Committee in accordance to the Design and Development Requirements. Inasmuch as a goal of this development is to honor the Pioneer Heritage of this area, it is hoped that those who would reside in this Subdivision would keep that theme in mind as they design the exterior of their home.

2.2 **Completion Required Before Occupancy.** No Building within the Property shall be occupied until and unless the owner of such Building shall have completed the Building in accordance and compliance with all approved plans and specifications, and a certificate of occupancy has been issued by Tooele City

**3. COVENANTS, CONDITIONS, AND RESTRICTIONS**

3.1 **Use of Lots.** All Lots within the Subdivision shall be used only for the construction and occupancy of one single family dwelling, not to exceed two (2) stories above basement (see Item 5.5) together with a private attached garage for not less than two (2) vehicles (3 suggested) and for not more than five (5) vehicles. \*\*Basement height is not to exceed three and one half feet average height above original grade at the buildings perimeter\*\*. Lots may also be used for the construction of typical residential amenities such as a storage building (see item 4.15), family swimming pool, tennis court, etc. All Lots shall be used, improved, and devoted exclusively for such single family residential use.

**3.2 Architectural Control.** No grading, excavation, building, fence, wall, residence or other structure of any kind, or alteration, shall be commenced, erected, maintained, improved, altered, or made, until the construction plans and specifications thereof along with a topographical plan showing the location of all improvements, including a detailed landscaping plan has been approved in writing by the Committee. All subsequent additions to or changes or alterations in any building, fence, wall, or other structure, including exterior color scheme, and all changes in the grade of any Lot shall be subject to the prior written approval of the Committee. No changes or deviations in or from the plans and specifications once approved by the Committee shall be made without the prior written approval of the Committee. Subsequent to receiving approval of the Committee, and prior to the commencement of construction, each Owner shall be responsible for obtaining a building permit from Tooele City and connections of ALL utilities to his or her lot.

**3.3 Construction Time.** There is no designated time limit to start construction on a primary residence, however, once construction is started, the entire dwelling structure and attachments must be completed not later than twelve (12) months from the date construction starts. "Start" shall be the instant any foliage is cut or removed in anticipation of the construction and/or landscaping to be undertaken. All building debris, excavation, dirt, and the like, associated with the building process shall be removed within the said twelve (12) month period. Such debris and excavation dirt shall not be permitted on any of the streets or sidewalks in the Subdivision. Prior to the date construction starts, each Lot owner shall be responsible for the upkeep of said Lot so as not to create a fire or health hazard, and to keep it visually appealing to the surrounding residents. In the event of a resale of a lot, NO extension of time will be granted without written approval of the Committee, prior to the resale of the lot. The Committee must, likewise, approve any other time extension request.

**3.4 Deadline for Completion of Landscaping and Automatic Sprinkling System.** The front yard of each Lot (from the street curb to the front building line of the residence on the Lot) shall be landscaped within four (4) months of the occupancy date of any structure built upon said Lot, weather permitting. Each park strip (between curb and sidewalk) shall contain a minimum of two (2) trees and shall not be further apart than fifty (50) feet. Corner lots require two (2) trees on each street park strip that borders the lot. If there are lot width or other restrictions, the committee may decrease the number of trees. Each tree shall have a minimum two (2) inch caliber trunk measured one (1) foot from the ground and shall be at least six (6) feet high (see Tooele City Code 7-19-28). The remainder of the Lot, other than wooded or steep hillside areas, shall be landscaped with automatic sprinkling system and substantially completed within nine (9) months of the occupancy date of the primary structure. Landscaping of corner lots must insure that sight lines at elevations between two (2) and six (6) feet above the roadways shall be preserved to provide safety at intersections.

**3.5 Trees.** The following trees are the only types of trees allowed in the park strip: American Linden, Norway Maple, London Plain Tree, English Elm, Schquindler Maple, Male Thornless Honey Locust, Male Thornless Sunburst Locust, and Horse Chestnut. Planting time guidelines recommended by the City are: Bare Root = March 1st to May 1st, and Bag and Burlap = March 1st to October 15th (see Tooele City Code 4-11-22)

**3.5.1 Restricted Trees.** Lombardy Poplar, Russian Olive, Siberian/ Chinese Elm, American Elm, Weeping Willow, Box Elder, European White Birch, European Ash, Pin Oak, Silver Maple, Tree of Paradise, and Thorned Honey Locust will not be allowed in any front yards and only with Committee approval in rear yards (see Tooele City Code 4-11-26). Fruit trees shall be allowed in rear yards only.

**3.6 Nuisances.** No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, and no odors or loud noises shall be permitted to arise or emit therefrom, so as to render any such Lot or any portion thereof, or activity thereon, unsanitary, unsightly, offensive, or detrimental to the owners of any other Lot in the vicinity thereof, or to the occupant of such other Lot. No other nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other Lot in the vicinity thereof or to its occupants. Normal construction activities and parking in connection with the building of improvements on a Lot shall not be considered a nuisance or otherwise prohibited by this Declaration. However, all Lots shall be kept in a neat and orderly condition during construction periods. Trash and debris shall not be permitted to accumulate, and supplies of brick, block, lumber, and other building materials shall be piled only in such areas as may be approved by the Committee. In addition, any construction equipment and building materials stored or kept on any Lot during construction of improvements may be kept only in areas approved by the Committee, which may also require screening of such material and equipment storage areas. No part of the premises shall be used for business, professional, commercial, or institutional purposes.

**3.7 Parking or Storage of Vehicles.** All vehicles owned by Owner shall be parked either in the garage or the driveway. All recreational vehicles shall be parked either in the garage or on a concrete pad located at the side of the garage. Said vehicle shall not extend any closer to the front street than the front of the residential structure in said Lot. No recreational vehicle will be allowed to remain parked in the street fronting any portion of the Lot. Licensed, regularly used passenger vehicles (i.e. visitor vehicles) may be parked in the street of the Subdivision for brief periods of time (i.e. less than twenty four hours). Overnight parking of such vehicles shall generally be restricted to the driveway of the dwelling being visited. Boats, campers, snowmobiles, other recreational vehicles, trailers, etc. are prohibited from being stored at the front of the house. NO cars on blocks or Non-running vehicles are allowed on any lot.

**3.8 Garbage and Refuse Disposal.** No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste, and such materials shall not be kept on any Lot except in covered containers. All Trash containers shall be covered and kept screened from view from the street in suitable enclosed areas, except during public collection. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. The burning of rubbish, leaves, or trash within the Subdivision is prohibited. Each Lot and its abutting street are to be kept free of trash, weeds, and other refuse by the Lot Owner. No unsightly material or objects are to be stored on any Lot in view of the general public. Satellite Dishes are not to be seen from the street unless they are the 18" in diameter type mounted on the house.

**3.9 Signs.** No signs, posters, displays, or other advertising devices of any character shall be erected or maintained on, or shown or displayed to the public view on any Lot, without the express written consent of the Committee. The restrictions of this paragraph shall not apply to any sign or notice ten square feet or smaller in size which states that the premises are for rent or sale. The Committee may cause all unauthorized signs to be removed. This section shall not apply to any signs used by Declarant or its agents in connection with the original development and sale of the Lots.

**3.10 Repair of Improvements.** No improvements on any Lot shall be permitted to fall into disrepair and such improvements shall at all times be kept in good condition and repaired and adequately painted or otherwise finished. In the event any building or structure is damaged or destroyed, then, subject to the approvals required by Section 3.2 above, such building or structure shall be repaired or rebuilt or demolished at the sole expense of the Owner of such Lot within a reasonable amount of time.

**3.11 Pets, Livestock and Poultry.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats, and other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose and are restricted to the owner's premises or on leash under handler's control. No more than a combination of any two animals (such as 1 cat and 1 dog) will be allowed at any one time. Furthermore, cats and dogs are not allowed to be released from Owners property without being leashed and supervised

**3.12 Restriction on Further Subdivision, Property Restrictions, and Rezoning.** No lot shall be further subdivided or separated into smaller Lots by any Owner, and no easement, shall be conveyed or transferred by any Owner, without the prior written approval of the Committee, which approval must be evidenced on the official plat or other instrument creating the Subdivision, easement, or other interest. No further covenants, conditions, restrictions or easements shall be recorded by any Owner or other person against any Lot without the provisions thereof having been first approved in writing by the Committee. Any covenants, conditions, restrictions or easements recorded without such approval being evidenced thereon, shall be null and void. No application for rezoning of any Lot, and no applications for variances or use permits, shall be filed with any governmental authority unless the proposed use of the Lot has been approved by the Committee and the proposed use otherwise complies with the provisions of this Declaration.

**3.13 Declarant's Exemption.** Nothing contained in the Declaration shall be construed to prevent the erection or maintenance by Declarant, or its duly authorized agents, of temporary structures, trailers, improvements or signs necessary or convenient to the development, marketing, or sale of Lots within the Subdivision.


**3.14 Easements.** All lots have, unless otherwise recorded, a ten (10) foot utility easement, surrounding all sides for installation of various utilities and equipment, such as water, sewer, storm drainage, telephone, power, natural gas, etc. All easements may be utilized by the various utility companies, at their discretion, for placement of utilities and/or equipment.

**3.14.1 Preservation of Drainage and Public Utility Easements.** Easements for installation and maintenance of utilities and drainage facilities and other uses are reserved as shown on the Plat Map. 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 or easements. The easement area of each of the Lots and all improvements in such easement area shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

**3.14.2 Reservation of Easements.** No Owner of a Lot shall interfere with the established points at which drainage easements enter and leave the Lot, nor the established course through the Lot.

#### 4. DESIGN CRITERIA

**4.1 Building Materials.** All structures constructed within the subdivision shall be built on the site and shall be of new materials (with exception of natural stone or rock) and shall be of good quality workmanship and materials.

 **4.1.1** Fifty percent (50%) of all exterior construction shall be brick or stone, except that used brick may be used with prior written approval of the Committee. Only Fifty percent (50%) stucco mix at exterior is allowed, however an increase in stucco up to Seventy percent (70%) may be allowed by written approval from the Committee if the Builder/Owner proposes to include a decorative enhancement (i.e. coined corners of a different color). In rare instances, and only on approval by the Committee, an all stucco exterior might be permitted if the design and architecture has sufficient variety, contrast, and visual interest, IN THE COMMITTEE'S OPINION, as to not detract from other homes in the subdivision. Stucco material must be of a quality as to withstand the temperature variations and other factors related to this climate.

**4.1.2** To insure visual variety in exterior architecture, homes with the same exterior design will not be allowed next door to each other. Only those exterior materials which will blend harmoniously with the natural environment, with special emphasis on earth toned colors, shall be permitted. In order to provide conformity and to establish an interesting visual variety in home colors, the main exterior color of the structure (house) must be, at a minimum, two shades lighter or two shades darker than your neighbors house if already built to the left or right of your structure. Brick or stucco of dark or bright red or pink colors do not create a visual blending with the other colors and are discouraged.

**4.1.3** The typical roof pitch shall be at least 4/12

**4.1.4** A minimum width of twelve (12) inches shall be required on the soffit.

**4.1.5** All dwelling foundations shall be plastered, in their entirety, for all areas that are visible above grade.

**4.1.6** All stacks and chimneys from fireplaces in which combustible materials other than gas are burned, shall be fitted with spark arrester(s). All Builders/Owners shall strictly comply with all state laws and city ordinances pertaining to fire hazard control.

**4.2 Restricted Materials.** ~~No aluminum, metal, or vinyl siding~~ will be permitted, with the exception that aluminum and vinyl materials will be allowed at soffit and fascia areas and on decks and railings only. Log structures are prohibited. Chain link fence is prohibited. An exception may be given for Tennis Courts and similar areas (see paragraph 4.13 and 4.14).

**4.3 Roofing Materials.** Top of line of each category. Asphalt, Asphalt Laminated, Fiberglass, Fire Resistant Wood Shake, and Clay Tile. Architectural Grade Asphalt roofing must be of the highest grade with minimum 25 year life. All roof colors and request for variance of roof materials regardless of type must be approved by the Architectural Committee.

**4.4 Preservation of Views.** To Insure that property owners will have optimum view potentials, the committee will need to approve the height of homes allowed on lots 2, 12, 13, 14, 15, and 16.

**4.5 Size of Dwelling.** No dwelling shall be permitted on any lot wherein the floor area of the main structure of the dwelling, exclusive of garage and open porches, is less than the following measurements: (a) For a Single Story dwelling, 1,350 square feet, not including basement area; (b) For Two Story dwelling, 1,620 square feet for the combined total for both floors, not including basement; (c) For a

**Split Level or Split Entry dwelling.** 1350 square feet, for the combined area of the two levels of the dwelling, exclusive of garage, exterior storage rooms, and open porches, or basement in the instance of a Split Level dwelling. **Note:** These minimum square footage requirements for a dwelling are minimum and align with the R1-12 zone minimum requirements. These minimum requirements are allowed in this development to make well built custom homes more affordable and so the option would be available for a resident to have a custom built home of a smaller size, in a exclusive neighborhood, if they so desired (i.e. retired couples, etc.). No building or structure, except chimneys, television antennas, and flagpoles shall exceed 28 feet in height (See item 4.4).

**4.6 Set Back Lines.** Unless a written exception is granted by the Committee where unusual circumstances exist, the following set back lines shall apply:

**4.6.1** No building shall be located on any lot line, or nearer than 30 feet to the front lot line, or nearer than 20 feet to any side street line.

**4.6.2** No building shall be located nearer than <sup>10</sup>8 feet to an interior lot line, and both side yards, when added together, shall be at least 20 feet.

**4.6.3** No dwelling shall be located farther than 40 feet from the front lot line or nearer than 30 feet to the rear lot line.

**4.6.4** For the purposes of this declaration, caves, steps, and open porches shall not be considered as a part of the building, provided that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

**4.7 Special Considerations.** As a result of sensitive natural vegetation, drainage, slope elevations, overhead power lines, and other considerations: Lots 18, 26, 27, 30, 38, 51, and 62 will require approval from the Architectural Control Committee with regard to exact placement of a structure in an effort to preserve the natural settings along the vegetated areas and draws, etc. Some improvements, such as private recreational facilities, swimming pools, tennis, or badminton courts, etc., may be prohibited in areas which are adverse, in the opinion of the Committee, to the natural vegetation, drainage, slope elevations, or have other limiting factors.

**4.8 Exterior Security Lighting.** All dwellings will require at least a 110 volt electric outdoor port lamp retrofitted with a 20 amp electrical outlet (weather type) at the base of each post. The post lamp will require an activating light sensor with a minimum of 75 watts of lighting by either single bulb or by multiple bulbs. Exterior garage lighting must also be sensor activated with a minimum of two bulbs. Owners are responsible for the replacement of light bulbs. All security lighting must be visible and maintained in good working order at all times. Failure to do so within one week of written notice, will result in the Committee replacing or repairing the light and the property owner will be billed accordingly.

**4.9 Exterior Outlets.** At least two (2) exterior outlets (weather type), one (1) at the front and one (1) at the rear of each dwelling. These outlets must conform to the proper electrical standards and may be placed within the soffit.

**4.10 Exterior Hose Bibs.** At least two (2) one front and one rear of each dwelling.

**4.11 Utilities.** Each building lot owner will receive utilities stubbed into it within only a few feet. It will be the responsibility of each owner to complete and pay for ALL the utility connections and fees (i.e. water and sewer) within his/her lot. The Owner will be responsible for paying for the water meter, connection, and related fees. The owner is not allowed to "reduce" the water meter in size. Owner is responsible to pay for the fees and connection of Gas (Mountain Fuel Supply), Electrical (Utah Power), and Telephone (US West) to his/her lot. The developer will provide "stubbed" into each lot at his expense the following: Sewer, Water, Electrical, Telephone.

**4.12 Mailboxes.** Each dwelling shall have a mailbox constructed in the park strip at the proper height and set back as required by the post office. To provide visual harmony or conformity, all mailboxes shall be placed in a brick or rock enclosure or pillar to match the brick or rock of the particular dwelling. A stucco enclosure may be constructed for a mailbox if it has a suitable design in harmony with the dwelling structure.

**4.13 Lots with Swimming Pools.** Such lots must be fenced with a minimum six foot perimeter fence and a second three foot minimum interior fence with childproof latches surrounding the pool. The second fence can be chain link. Furthermore, the swimming pool must have a mechanical "vinyl type cover" rated to withstand 150 pounds of weight without failure to cover.

**4.14 Hedges, Fences, and Walls.** Unless approved by the Committee, No hedge more than three (3) feet high and No fence or wall, except a split rail fence not more than two (2) feet six (6) inches high, shall be erected, placed, or permitted to remain on any Lot closer to the front street than the front of the residential structure in said Lot. Where said hedge, fence, or wall is located between two (2) lots, it shall not be closer to the front street than the front of the adjoining residence. On corner lots, any hedge, fence, or wall other than a hedge or fence allowed above, erected or placed on the side yard adjacent to the side street shall be located back from the side lot line at least as far as the minimum required for a residential structure. In no case will chain link fencing be erected (see paragraph 5.2 and 5.12 for possible exceptions). No fence is to be higher than six (6) feet in other areas unless approved by the Committee. All fencing must be well maintained.

**4.15 Other Structures.** UPON COMMITTEE APPROVAL, one (1) storage building that is not attached to the primary residence may be permitted provided the building is permanently anchored to the ground via a cement floor and foundation and is constructed of the same or similar material as the primary dwelling structure. The size of this storage building shall not exceed 300 square feet of floor area, nor be more than one story high. Motor vehicles (i.e. cars and trucks) shall be kept in the garage attached to the house and not in the storage building. Unattached private recreational facilities, including swimming pools, tennis, or badminton courts, may also be approved by the committee.

**4.16 Hidden View Items.** Equipment and other items to be kept obscured or hidden from view of the front yard and street: Roof mounted air conditioner(s), roof mounted solar panels, roof mounted satellite dish, roof mounted antenna, clothes lines, woodpiles, service yards, storage piles, and other equipment.

## **5. MAINTENANCE**

**5.1 Purpose of Maintenance Charge.** In order to create, maintain and improve the Subdivision as a pleasant and desirable environment, to establish and preserve a harmonious design for the community and to protect and promote the value of the Subdivision, each Owner covenants and agrees to maintain its Lot in accordance with the terms of this Declaration, or are subject to the assessment of Maintenance Charges to be levied by the Committee or Association as hereinafter provided.

**5.2 Maintenance of Park Strip.** Each Owner shall be responsible to landscape, and maintain the Park Strip fronting on each Owner's Lot. The maintenance shall include, without limitation, the mowing and watering of the designated Park Strips, removal of weeds, clearing of debris and other general care, removal of snow from the sidewalk, but not the removal of snow from the planted area of the Park Strip. In the event that any Owner shall fail to landscape or maintain the Park Strip, whether such failure is caused through the failure or act or the willful or negligent act of any Owner, his family, guests or invites, or otherwise, then, subject to the provisions of Section 3.4 hereof, the Committee and the successor Association (herein, for convenience, sometimes jointly referred to as the "Committee") shall have the right to cause such landscaping and maintenance to be performed. The cost of such maintenance or repairs, shall constitute a Maintenance Charge to which such Owner's Lot shall be subject. The Maintenance Charge shall be secured by a Maintenance Charge Lien as set forth herein. Note: Only acceptable trees, grass, shrubbery and flowers are allowed within the area of the park strip. No cobble stone, rocks, fences, asphalt, concrete or mounds are permitted. However, mailboxes are allowed within the park strip (see paragraph 4.12).

**5.3 Improper Maintenance of Lot.** Each Lot within the Subdivision shall be maintained by its Owner without regard to whether or not any improvements have been constructed thereon by said Owner. In the event that: (a) any Park Strip or Lot that is not maintained or repaired as set forth herein; or (b) any portion of any Lot is so maintained as to present a public or private nuisance or substantially detracts from the appearance or quality of the surrounding Lots; or (c) any portion of a Lot is being used in a manner which violates this Declaration; or (d) any Owner fails to perform any of its obligations under this Declaration of the Design and Development Requirements of the Committee, the Committee shall give written notice thereof to the owner of the applicable lot. If the conditions are not corrected within thirty (30) days of the date or such notice, the committee shall have the right, without further notice or demand, to cause the condition set forth in the notice to be corrected at the cost of such Owner. The cost of such maintenance or repairs performed by the committee shall constitute a maintenance charge

to which such Owner's Lot shall be subject, and the maintenance charge shall be secured by a Maintenance Charge Lien as set forth herein.

**5.4 Maintenance Charge Lien.** The maintenance charges, together with interest, costs, and reasonable attorney's fees, shall be secured by a Lien (the "Maintenance Charge Lien") on the lot to which such charges relate, in favor of the Committee. Such charges, costs, and expenses shall be a lien upon the lot against which each such charge is made until paid in full. The Maintenance Charge Lien shall be a charge on the lot, shall attach from the date when the unpaid charge became due, and shall be a continuing lien upon the lot against which each such assessment is made until paid in full. Each such Maintenance Charge, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time the Maintenance Charge becomes due. The Maintenance Charge Lien may be foreclosed by the Committee, in the same manner as a mortgage on real property, upon the recording of a Notice of Delinquent Maintenance Charge as set forth in Section 5.5 hereof. The Committee shall be entitled to purchase the Lot at any such foreclosure sale.

**5.5 Effect of Nonpayment.** Any Maintenance Charge not paid within thirty (30) days of the date of written notice of the amount thereof, shall be deemed delinquent and shall bear interest at the rate of eighteen percent (18%) per annum from due date until paid. The Owner of the applicable Lot shall be liable for all costs, including attorneys' fees, which may be incurred by the Committee in collecting the same. The Committee may also record a Notice of Maintenance Charge Lien against any Lot as to which a Maintenance Charge is delinquent. The Notice shall be executed by a member of the Committee, setting forth the amount of the unpaid assessment, the name of the delinquent Owner, and a description of the Lot. The Committee may establish a fixed reasonable fee to reimburse the Committee for the Committee's costs in recording such Notice, processing the delinquency, and recording a release of said lien, which fixed fee shall be treated as part of the Maintenance Charge of the Committee secured by the Maintenance Charge Lien. The Committee may bring an action at law against the Owner personally obligated to pay the delinquent assessment and/or foreclose the lien against said Owner's Lot. Commencement of an action against said Owner shall not be deemed to be a waiver of the right to foreclose the lien granted herein unless and until all amounts due are paid in full. No Owner may waive or otherwise avoid liability for the assessments provided for herein by non-use or abandonment of his or her Lot.

**5.6 Priority of Lien.** The Maintenance Charge Lien, provided for herein, shall be subordinate to any Mortgages or Trust Deeds where the home or Lot is secured as collateral. Said lien shall also be subject to and subordinate to liens for taxes and other public charges. Except as provided above, the Maintenance Charge Lien shall be superior to any and all charges, liens, or encumbrances which may in any manner arise or be imposed upon the applicable Lot after the date and time of the recordation of the Notice of Maintenance Charge Lien. Subsequent sale or transfer of any Lot shall not affect the Maintenance Charge Lien.

## **6. ARCHITECTURAL CONTROL COMMITTEE**

**6.1 Membership.** The Architectural Control Committee is composed of F. LaMar Penovich, 304 South 100 East, Tooele, Utah 84074; Glen E. Miller, 891 Upland Drive, Tooele, Utah 84074; Charles Saling, 19 South 820 East, Tooele, Utah 84074; and Boyd White, 68 West Iron Rod Road, Tooele, Utah 84074. A Majority of the Committee may designate a representative to act for it. In the event of the death or resignation of any member of the Committee, the remaining members of the Committee shall have full authority to designate a successor. **Neither the members of the Committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this declaration.** At any time, the then recorded owners of the majority 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 power and duties.

**6.2 Procedure.** The Committee's approval or disapproval as required in this Declaration shall be in writing. In the event the Committee, or its designated representative, fails to approve or disapprove within thirty (30) days after the 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 completion thereof, **approval will not be required and the related covenants shall be deemed to have been fully complied with.**

## **7. ARCHITECTURAL CONTROL COMMITTEE DISSOLUTION**

**7.1 Canyon Rim Estates Owners Association.** Three months after the sale and closing of the last lot in the subdivision, the Architectural Control Committee shall be dissolved and its duties shall be

assumed by a newly formed Canyon Rim Estates Owners Association. An acting chairperson for the Association shall be appointed by the Architectural Control Committee, which chairperson shall then serve an initial term of three years.

## **8. CANYON RIM ESTATES OWNERS ASSOCIATION**

**8.1 First Annual Meeting.** Within thirty (30) days after appointment by the Architectural Control Committee, the acting Association Chairperson shall be responsible to call the first annual meeting of the Canyon Rim Estates Owners Association. The purpose of this meeting shall be to elect four additional Association Committee members. Two Committee members shall be elected for two-year terms and two members for three-year terms. At each annual meeting of the Association thereafter any vacant seat on the Association Committee shall be filled with a member elected for a three-year term. The Canyon Rim Estates Owners Association shall at all times be composed of five members.

**8.2 Association Qualification.** Only fee simple Owners within Canyon Rim Estates shall be eligible for Association Committee membership.

**8.3 Vote.** Each Owner in the subdivision is allowed one vote for each Lot so owned in the Canyon Rim Estates Subdivision. The Association is to meet annually to vote upon business that is in the common interest of the Lot owners.

**8.4 Association Duties.** The Canyon Rim Estates Owners Association shall be responsible for the enforcement of the provisions of this Declaration on an ongoing basis, to maintain the integrity of the property values encompassed by this Declaration, and for such other matters as shall be reasonably necessary to give effect to the purpose of this Declaration. In addition to the authority herein expressly given, the Association shall have such right, powers, and privileges as shall be reasonably necessary to give effect to this Declaration and the ongoing enforcement thereof.

**8.5 Special Meetings.** At least two Association Committee members of the Canyon Rim Estates Owners Association may schedule a special meeting to discuss action of items deemed urgent. Written notice of such meeting(s) must be given to the remaining Committee Members and announcements posted at each entrance of the Canyon Rim Estates Subdivision noting the time and place of such meeting no later than five (5) calendar days prior to the meeting. The Committee Members shall have the same authority as that of an annual meeting.

## **9. TERM AND AMENDMENTS**

**9.1 Term; Method of Termination.** This Declaration shall be effective upon the date of recordation hereof and, as amended from time to time, shall continue in full force and effect for a term of twenty (20) years from the date of recordation. From and after said date, this Declaration, as amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by the then Owners, based upon one vote per Lot, casting seventy-five (75%) of the total votes cast at an election held for such purpose, within six (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension thereof. This Declaration may be terminated at any time if at least ninety percent (90%) of the votes cast by all Owners shall be cast in favor of termination at an election duly held for such purpose. No vote to terminate this Declaration shall be effective unless and until the written consent to such termination has been obtained, within a period of six (6) months prior to such vote, to six (6) months after such vote, from the holders of recorded first mortgages or deeds of trust on seventy-five (75%) of the Lots upon which there are such recorded first mortgages and deeds of trust. If the necessary votes and consents are obtained, the Committee shall cause to be recorded in the Tooele County records a "Certificate of Termination", duly signed by a member of the Committee or Association as applicable, and acknowledged before a Notary Public. Thereupon the covenants herein contained shall have no further force and effect, and the Committee and the Association shall be dissolved pursuant to the terms set forth herein.

**9.2 Amendments.** This Declaration may be amended by recording in the Tooele County records a "Certificate of Amendment", duly signed and acknowledged as required for a Certificate of Termination. Any amendment shall be effective only if the written consent is obtained from the holders of recorded first mortgages or deeds of trust on seventy-five percent (75%) of the Lots upon which there are such recorded first mortgages or deeds of trust.

**9.3 Additional Property.** Notwithstanding any other provision of the Declaration, Declarant shall have the right to unilaterally provide for the amendment of this Declaration for the purpose of causing

additional property to become subject to the terms and conditions hereof. Such right shall be exercised in the sole and absolute discretion of Declarant and may be exercised on one or more occasions. The right herein reserved shall be exercised without the requirement of any vote of consent of any Owner, by the recordation of an amendment to this Declaration, executed by Declarant (and the fee owner of the real property to be annexed hereto, if other than Declarant), which shall provide a legal description of the real property to be annexed, a statement that such additional property shall thereby be made subject to the terms and conditions hereof, and such other matters as Declarant shall determine to be necessary, provided, however, that no such unilateral amendment shall materially impair the right of any existing Owner of a Lot in the Subdivision.

#### 10. MISCELLANEOUS

10.1 **Interpretation of the Covenants.** Except for judicial construction, the Committee shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Committee's construction or interpretation of the provisions hereof shall be final, conclusive, and binding as to all persons and property benefitted or bound by the Declaration and the provisions hereof.

10.2 **Severability.** Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

10.3 **Rules and Regulations.** The Committee shall have the right to adopt rules and regulations with respect to all aspects of the Committee's rights, activities, and duties, provided said rules and regulations are not inconsistent with the provisions of this Declaration.

10.4 **General Reservations.** Declarant reserves the right to grant, convey, sell, establish, amend, release, and otherwise deal with easements, reservations, exceptions and exclusions which do not materially interfere with the best interests of Owners and/or the Committee including, but not limited to, access and utility easements, road easements, pedestrian and equestrian easements, pedestrian and hiking trails and easements, mountain bike easements and drainage easements.

10.5 **Declaration to Run with the Land.** Declarant, for itself, its successors, and assigns, hereby declares that all of the Subdivision shall be held, used, and occupied subject to the provisions of this Declaration, and to the covenants and restrictions contained herein, and that the provisions hereof shall run with the land and be binding upon all persons who hereafter become the Owner of any interest in a Lot in the Subdivision.

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