

DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS

FOR

ACORD LAKES MOUNTAIN RETREAT SUBDIVISION
According to the Official Plat Thereof

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Recorded in the Office of the County Recorder of

SEVIER COUNTY, STATE OF UTAH

April 24, 1974, as Entry No. 177036

THIS DECLARATION is made this 24th day of April, 1974, by ACORD LAKES MOUNTAIN RETREAT, a Utah Limited Partnership, by the General Partner, The John Paul Gordon Co., a Utah corporation.

I. PROPERTY DESCRIPTION:

The property which is the subject of this Declaration and which is owned by Declarant is located in Sevier County, State of Utah, and described as follows:

The North Half of the Northeast quarter; the Northwest quarter, and the Northwest quarter of the Southwest quarter, Section 8, Township 22 South, Range 4 East, Salt Lake Base and Meridian.

II. STATEMENT OF INTENTION AND PURPOSE.

Declarant hereby declares that the above-described real property and every part thereof is held and shall be held, conveyed, leased, rented, encumbered, used, occupied and improved and otherwise affected in any manner subject to the provisions of this Declaration and the covenants, restriction, reservations and conditions herein contained, each and all of which provisions are hereby declared to be in furtherance of the general plan and referred to herein and are further declared to be for the benefit of the subdivision development and every part thereof and for the benefit of each owner; that said real property as described shall be included in an official plat recorded and filed with Sevier County Records, dividing said property into lots as shown on said plat, and roads and streets as shown on said plat, which roads and streets will not be dedicated to the public, but shall be private roads and streets reserved for the benefit and use of all the property and owners of lots as shown on said recorded plat.

All provisions hereof shall be deemed to run with the land as covenants running with the land or as restrictions and equitable servitudes as

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Robert L. Olcott, Treasurer & Recorder, Sevier County

Request of Utah Title & Abate, Fee \$10.00
Company

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the case may be, and shall constitute benefits and burdens to the Declarant, its successors and assigns, and to all parties hereafter owning any interest in the subdivision.

Permanent occupancy upon the land will not be permitted. The intent of the development is to provide quality controls to well located quality land and to give as many people as the land can comfortably handle, the opportunity to own and use portions thereof and yet leave the land basically unblemished. It is not the intention of Declarant to supply each lot with water, sewage facilities, power and all weather roads, and persons looking for such "modern conveniences" would probably expect additional services from the State and County, such as snow removal, school bussing and trash hauling, etc. The property described herein is recreation land and is to remain such, and is not intended to provide "ease of living." Ownership of lots in this subdivision should be acquired by persons who want self-sufficiency and will accept the inconveniences attending use of the property in order to enjoy the virgin-type surroundings and natural features.

The acceptance of any deed or conveyance of any lot or portion of said described real property by a grantee or grantees, shall constitute their Limited Partnership, and with the owners of all other lots or parcels in said property and as shown on the recorded plan thereof, to accept and hold the lot(s) or parcel described or conveyed in or by such deed or conveyance, subject to said covenants, restrictions, reservations and conditions as herein stated, and which shall be binding on their heirs, executors, administrators, successors and assigns.

III. RESTRICTIONS AND OTHER PROVISIONS.

3.1. LAND USED AND BUILDINGS: All improvements must be contained within an area of one acre (43,560 square feet) or less (at Owner's option), hereinafter referred to as the "selected site." The location, shape and dimensions of said selected site must be approved in writing by the Quality Control Committee. The selected site may be in any shape or configuration, but must not be located across or within any right of way intended for joint use of other owners within the development. No building or outbuilding such as a barn or corrals shall be erected, altered, placed or permitted to remain on such selected site, other than a single-family dwelling, two separated single-family dwellings, or a two-family dwelling, and private garages for not more than four vehicles, except as may be approved in writing by the Quality Control Committee.

3.2. REMAINDER OF LOT: No part of the remaining portion of any lot (other than "selected site") shall be used for any purpose other than to retain such lot in its natural state, and no improvements or buildings shall be erected, altered, placed or permitted to remain thereon except as hereinafter provided. As to a platted lot 7.5 acres or larger, after five(5) years from the date hereof, one additional acre may become a "selected site" within a lot, upon which a residence and other buildings may be

constructed, provided, however, that the selection thereof is to be made and approved as herein provided for the selection of the first selected site, and subject to all of the provisions hereof, and subject to the then existing Governmental ordinances and regulations.

3.3 FENCES AND WALLS: No fences or walls shall be erected or maintained on any lot or portion thereof, except around the perimeter or lesser portion of any selected site, and with written approval of the Quality Control Committee as to materials used and design thereof.

3.4 SERVICES: No services or utilities shall be supplied to owners of lots other than construction and maintenance of roads and easements as provided herein and maintenance of water supply and sewage facilities specifically as required by Sevier County at the time of approving this subdivision.

3.5 ARCHITECTURAL & QUALITY CONTROL: No buildings shall be erected, placed or altered on any lot, nor mobile home or trailer kept thereon, without written approval of the Quality Control Committee, and no fence, wall, swimming pool or other structure shall be erected, placed or altered on any lot without written approval of said committee, and in compliance with the provisions of Section 4.6 herein.

3.6 ROADS AND EASEMENTS: All roads, streets and easements, as shown on said recorded plat other than those designated as "existing," are private, and shall not be dedicated to the public, but are reserved for the benefit and use of all the property and the owners of lots in said subdivision. The owners of lots or parcels may be assessed an annual charge of \$25.00, subject to adjustment by the Property Owners Association as hereinafter defined in Article VII hereof (hereinafter the "Association"), to be used solely for the maintenance and improvement of said roads, streets and easements, which charge shall be due on the first day of March each year, and if not so paid, shall become a lien on said lot, which may be recorded in the office of the Sevier County Recorder. Said charges shall be assessed by and paid to the Quality Control Committee and all such sums shall be administered by said committee.

None of the roads, streets or easements shall receive any repairs, maintenance or snow removal services from Sevier County. The quality of roads, streets and easements will be limited to graded dirt roads, and will be graded in such a way as to provide reasonable drainage and reasonable utility of use. Buyers and owners of lots must understand that when dirt roads are wet they can be impassable, and responsibility is left with the individual lot owners to get vehicles unstuck or relieved from inconvenience caused by impassable road conditions.

3.7 RESERVATION OF EASEMENTS: There is hereby reserved an easement for travel and for utilities, installation and maintenance, of 15 feet on both sides of the center line of any platted road or street within the boundaries of said property and subdivision. There is also reserved a 10-foot easement on each side of each and every lot line for installation and maintenance of utilities. There is also reserved a 20-foot easement on lot lines bordering the National Forest and on lot lines bordering properties not owned by Declarant.

Some of the Common Areas are or may be located within a lot or may be conveniently accessible only through the lots. The owners of other lots shall have the irrevocable right, to be exercised by the Association, as hereinafter defined, as their agent, to have access to each lot and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Areas located therein or accessible therefrom or for making emergency repairs at any time therein necessary to prevent damage to the Common Areas or to another lot or lots. All conveyances of lots hereafter made, whether by the Declarant or otherwise, shall be constructed to grant and reserve such reciprocal easements as are provided for herein, even though no specific reference to such easements appears in any such conveyance.

3.8 NUISANCES: 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 to the area.

3.9 TEMPORARY AND OTHER STRUCTURES: No structures of a temporary nature nor basement house, shack, garage, barn, or other outbuilding shall be used at any time as a residence either temporarily or semi-permanently. No such structures shall be permitted on said lots at any time, nor shall old or second-hand structures be moved on to any of said lot, without written approval of the Quality Control Committee, it being the intention hereof that all dwellings and other buildings to be erected on said lots, or within said subdivision, and all mobile homes or trailers maintained thereon, shall be constructed of good quality workmanship, design and materials.

3.10 SIGNS: No billboard of any type shall be erected, posted, painted or displayed upon or about any of said property. Only one "For Sale" sign, no larger than 2' x 3' may be displayed on any lot. Otherwise, no sign shall be erected or displayed upon or about said property unless and until the form, design and content of said sign has been submitted to and approved in writing by the Quality Control Committee.

3.11 GARBAGE AND REFUSE DISPOSAL: No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste.

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except as designated by and pursuant to rules of the Quality Control Committee. All trash, rubbish, garbage or other waste shall be kept in sanitary containers only, and must be removed from the lots by the owners as often as necessary to prevent unreasonable accumulation thereof, nuisance, fire hazard, odor or eyesore. No incinerators shall be maintained on any lot, and there shall be no burning of rubbish, trash, papers, junk or debris except as ordinarily may be burned in a fireplace or stove, and in such manner as will not create a fire hazard to the area. Provided however, owners of lots may have campfires thereon, in such manner as will not create a fire hazard to the area.

3.12 FIRE REGULATIONS: Fire regulations shall include the above rules, and otherwise shall be the same as specified for the Fishlake National Forest, at any given time, except for the requirement of obtaining a fire permit and should follow the guidelines provided by the Utah State Board of Forestry and Fire Control.

3.13 WATER SUPPLY: No individual water supply system shall be used or permitted on any lot or group of lots except such system be first approved in writing by the Quality Control Committee and located, constructed and equipped in accordance with the requirements, standards and recommendations of the State Health Department, Sevier County, and approval of such system obtained from said government authorities.

3.14 SEWAGE AND WASTE WATER: No individual sewage system or waste water system, or toilets shall be used or permitted on any lot or group of lots except such system or toilets be located, constructed and equipped as requirements, standards and recommendations of the State Health Department and appropriate Sevier County agencies, and approval of such system obtained from such government authorities.

3.15 USE OF PROPERTY: That portion of each lot not contained within the selected site, may be used occasionally by other owners of lots within the subdivision, but only for the purpose of crossing over and/or to hunt upon, and without creating any rights in others as to any such lot, and such occasional use as is here provided may be changed or eliminated by the Quality Control Committee, but not enlarged, and such occasional use shall not be made to establish roads, bike trails, hiking trails of any type or permanent use.

3.16 SET BACK REQUIREMENTS: No building shall be located within sixty (60) feet of the center line of any road nor less than forty-five (45) feet from the front property line or thirty (30) feet from any side or rear line, or otherwise as required by Sevier County.

3.17 NATURAL GROWTH AND FEATURES: No trees, bushes, shrubs, flowers or other natural growth shall be removed or destroyed, nor shall there be any excavations, removal or disturbance of soil or rock; except as to the selected site, except when necessary for construction in accordance with all provisions herein, and after written approval of the Quality Control Committee.

IV. DURATION, ENFORCEMENT, AMENDMENT.

4.1 DURATION: All of the covenants, restrictions and reservations as set forth in this Declaration shall continue and remain in full force and effect at all times against said property, each lot and the owners thereof, subject to the right of change or modification hereinafter provided, for a period of twenty-five (25) years, and shall as then in force be continued for a period of twenty years, and thereafter for successive periods of twenty years each without limitation, unless, within the six months prior to 1999 or within the six months prior to written agreement executed by the then record owners of more than three-fourths (3/4) or seventy-five (75) percent in area of said property, exclusive of streets and roads and common areas, and approved by the Sevier County Planning Commission, be placed on record in the office of the County Recorder of Sevier County, by the terms of which agreement any of said covenants, restrictions or reservations are changed, modified or extinguished in whole or in part as to all or any part of the property originally subject thereto, in the manner and to the extent therein provided.

In the event that any such written agreement or change or modification be duly executed and recorded, the original covenants, restrictions and reservations, as therein modified, shall continue in force for successive periods of twenty years each, unless and until further changed, modified or extinguished in the manner hereinabove provided.

4.2 ENFORCEMENT: Each and all of said covenants, restrictions and reservations are for the benefit of each owner of lots in said property and subdivision, and they and each thereof shall inure to and pass with each and every lot or parcel of said property and subdivision, and shall apply to and bind the respective successors in interest of each lot and of Declarant herein. Each Grantee of a Grantor of any part, lot or portion of said property and subdivision, by acceptance of a deed or other conveyance, accepts the same subject to all of such covenants, restrictions and reservations shall be covenants running with the land or as restrictions and equitable servitudes as the case may be, and the breach thereof, and the continuance of such breach may be enjoined, abated or remedied by appropriate proceedings by any owner or owners of other lots or parcels in said property or subdivision or by Sevier County, but 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 for value; provided however, that any subsequent owner of said property or lot therein, shall be bound

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by the said covenants, restrictions and reservations, whether such lot or parcel is obtained by foreclosure or at a trustee's sale or otherwise.

(a) BY OWNER: Each owner as above stated, may enjoin, abate or seek enforcement or remedy by court action.

(b) BY DECLARANT, SEVIER COUNTY OR PROPERTY OWNERS ASSOCIATION: As herein stated, each violation hereof is deemed to be a nuisance and may be enjoined, abated, enforced or other remedy sought in court by the Declarant, ie. Acord Lakes Mountain Retreat, a Limited Partnership, by Sevier County or the Property Owners Association as defined herein. The nature of the particular violation will probably dictate the method of enforcement. Generally, a request to abate by the offended owner, with probably a similar request by Declarant and/or Sevier County and/or the Property Owners Association will first be made, with court action to follow after a reasonable time lapse.

4.3 VIOLATION CONSTITUTES NUISANCE: Every act or omission, whereby any covenant, restriction, reservation or condition in this Declaration set forth, is 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 or parcel owner and/or by Sevier County, and such remedy shall be deemed cumulative and not exclusive.

4.4 CONSTRUCTION AND VALIDITY: All of said covenants, restrictions and reservations contained in this Declaration shall be construed together, but if it shall at any time be held by a court of competent jurisdiction that any one of said covenants, restrictions or reservations, or any part thereof, is invalid, or for any reason becomes unenforceable, no other covenant, restriction or reservation, or any part thereof, shall be thereby affected or impaired; and Declarant and all subsequent Grantees, their successors, heirs and 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 become unenforceable.

4.5 RIGHT TO ENFORCE: The provisions contained in this Declaration shall bind and inure to the benefit of and be enforceable by Declarant or any successor in interest, by the owner or owners of any portion of said property, lot or parcel, their and each of their legal representatives, heirs, successors and assigns, or by Sevier County, and failure by any of such to enforce any of said covenants, restrictions or reservations shall in no event be deemed a waiver of the right to do so so thereafter.

V. QUALITY CONTROL COMMITTEE.

5.1 DEFINED: The Quality Control Committee which is vested with the powers described herein shall consist of five persons, two of whom shall be

appointed by Declarant, and three of whom shall be elected by a majority vote of the owners of lots or parcels in the subdivision property voting for such members. Said election shall be held on the first day of March of each successive three-year period, commencing on March 1, 1974. Prior to said date Declarant shall serve in such capacity. Said elected members of the committee shall serve for a period of three years. Should any such elected person resign, die, be decreed incompetent or refuse to so serve, the remaining members of said committee, by majority vote shall elect a successor to fill the remainder of the three-year term.

5.2 QUORUM: All action by the committee shall be by a majority vote of a quorum present, a quorum consisting of at least three members of the committee. The committee shall by majority vote, select a chairman from the committee from time to time, which chairman shall call the meetings of the committee and preside at all meetings, and sign all notices or approvals required of the committee.

5.3 FILING REQUIREMENTS: Prior to the commencement of any excavations, construction or remodeling or adding to any structure, there shall first be filed with the Quality Control Committee two complete sets of building plans and specifications therefore, together with a block or plot plan indicating the exact part of the building site the improvements will cover, and the said work shall not commence unless the Quality Control Committee shall endorse said plans as being in compliance with these covenants, restrictions and reservations and are otherwise approved by the said committee. The second set of plans shall be filed as a permanent record with the Quality Control Committee. In the event said committee fails to approve or disapprove in writing said plans, selection of residential acre or selected site or other approval as required herein, within forty-five (45) days after their submission to the committee, then said approval shall be deemed as granted. When all lots in said subdivision and property have been sold by Declarant or its successors in interest, all approvals required herein shall be made by the Quality Control Committee of five persons, all of whom shall be elected by a majority of owners of lots or parcels in the said subdivision, voting for such members.

VI. ASSIGNMENT OF POWERS:

6.1 Any and all rights and powers of Declarant herein contained, may be delegated, transferred or assigned. Wherever the term "Grantor" is used herein, it includes Declarant and its successors in interest and any owner or subsequent owner.

VII. THE ASSOCIATION.

7.1 MEMBERSHIP: Every lot or parcel owner shall be entitled and required to be a member of the Acord Lakes Mountain Retreat Property Owners Association, Inc. If title to a lot or parcel is held by more than

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one person, the membership related to that lot shall be shared by all such persons in the same proportionate interests and by the same type of tenancy in which the title to the lot or parcel is held. An owner shall be entitled to one membership for each lot owned by him. Each such membership shall be appurtenant to the lot upon which it is based and shall be transferred automatically by conveyance of that lot. No person or entity other than an owner may be a member of the Association, and a membership in the Association may not be transferred except in connection with the transfer of a lot; provided, however, that the right of membership may be assigned to a Mortgagee as further security for a loan secured by a lien on a lot.

7.2 AMPLIFICATION: The provisions of this Article are to be amplified by the Articles of Incorporation of the Association and by the By-Laws of the Association; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the owners set forth herein.

IN WITNESS WHEREOF, Acord Lakes Mountain Retreat, a Utah Limited Partnership, has by the General Partner executed this Declaration the day and year first above written.

ACORD LAKES MOUNTAIN RETREAT,
A Utah Limited Partnership

By The John Paul Gordon Co.,
General Partner

STATE OF UTAH
COUNTY OF SALT LAKE

On the 22nd day of April, 1973, personally appeared before me, JOHN K. BUSHNELL, who by me duly sworn did say that he is the President of The John Paul Gordon Co., a Corporation, and that said Corporation is the General Partner of Acord Lakes Mountain Retreat, a Utah Limited Partnership, and that the foregoing Declaration of Protective Covenants and Restrictions for Acord Lakes Mountain Retreat Subdivision was signed in behalf of said Limited Partnership by proper authority and that said instrument was signed on behalf of said Corporate General Partner and said JOHN K. BUSHNELL acknowledged to me that the said Limited Partnership executed the same by the General Partner and duly acknowledged to me that he executed the same and the seal affixed is the seal of said Corporate General Partner.

Commission Expires:
August 21-1977

NOTARY PUBLIC

Residing at:

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