

4454167

BENNION COURT ESTATES SUBDIVISION

DECLARATION OF BUILDING AND USE RESTRICTIONS

PART A. PREAMBLE

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, the undersigned, being the owners of the following described real property located in Salt Lake County, State of Utah:

Lots 1 through 9 inclusive, of the Bennion Court Estates Subdivision, according to the plat thereof as recorded in the office of the County Recorder of said County,

do hereby establish the nature of the use and enjoyment of all lots in said subdivision and do declare that all conveyance of said lots shall be made subject to the following conditions, restrictions and stipulations:

PART B. RESIDENTIAL AREA COVENANTS

1. Land Use and Building Type. No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed two stories in height and a private garage and carport for not more than three vehicles. All construction to be of new materials.
2. Architectural Control. No building shall be erected, placed, or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the minimum building setback line unless similarly approved. Approval shall be as provided in Part C.
3. Dwelling Cost, Quality and Size. No dwelling shall be permitted on any lot at a cost of less than \$55,000 including lot, based upon cost levels prevailing on the date these covenants are recorded, it being the intention and purpose of the covenants to assure that all dwellings shall be of quality of workmanship and materials substantially the same or better than that which can be produced on the date these covenants are recorded at the minimum cost stated herein for the minimum permitted dwelling size. Some masonry shall be required on front of structures on all lots. The main floor of the main structure, exclusive of one-story open porches and garages, shall be not less than 1200 sq. ft. for ramblers, split entries and tri-levels (main floor of the main structure defined as living room, and/or family room, kitchen/dining, bedrooms and bathrooms). The main floor of two-story structures shall be no less than 9900 sq. ft. with a total of 13000 sq. ft. finished.
4. Building Location.
  - (a) No building shall be located on any lot nearer to the front line or nearer to the side street line than the minimum building setback lines shown on the recorded plat. In any event no building shall be located on any lot nearer than 25 ft. to the front lot line, or nearer than 20 ft. to any side street line for corner lots.

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(b) No dwelling shall be located nearer than 5 ft. to any interior lot line, except that a one-foot minimum side yard shall be permitted for a garage or other permitted accessory building located 25 ft. or more from the minimum front building setback line. No main building shall be located on any interior lot nearer than 15 ft. to the rear lot line. Detached garages or other permitted accessory buildings may be located within one foot of the rear lot line, so long as such buildings do not encroach upon any easements.

(c) For the purpose of these covenants, eaves, steps, and open porches shall not be considered as a part of a building, provided, however, that this shall not be constructed to permit any portion of any building on a lot to encroach upon another lot.

5. Lot Area and Width. No dwelling shall be erected or placed on any lot having a width of less than 60 ft. at the minimum building setback line nor shall any dwelling be erected or placed on any lot having an area of less than 6,000 sq. ft., except that a dwelling may be erected or placed on all corner and cul-de-sac lots as shown on the recorded plat, provided that the above front and side yard clearance are maintained.

6. Easement. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements no structure, planting or other material 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 of the flow of drainage channels in the easements. The easement area 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.

7. 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 neighborhood. No clothes drying or storage of any articles which are unsightly in the opinion of the Architectural Control Committee will be permitted in carports, unless in enclosed areas built and designed for such purpose. No automobiles, trailers, boats, or other vehicles are to be stored on streets or front side lots unless they are in running condition, properly licensed and are being regularly used.

8. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings shall be used on any lot at any time as a residence either temporarily or permanently.

9. Signs. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

10. Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or 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.

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

12. Sight Distance at Intersection. No fence, wall hedge or shrub planting which obstructs sight lines at elevation between two and six feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in case of a rounded property corner from the intersection of the street property lines extended. The same sight-line limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

13. Oil and Mining Operations. No oil drillings, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

14. Landscaping. Trees, lawns, shrubs or other plantings if provided by the developer shall be properly nurtured and maintained or placed at the property owner's expense upon request of the Architectural Control Committee.

15. Slope and Drainage Control. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels or obstruct or retard the flow of water through drainage channels. The slope control areas of each lot, except for those improvements for which a public authority or utility company is responsible.

#### PART C. ARCHITECTURAL CONTROL COMMITTEE

1. Membership. A majority of the committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining members of the committee shall have full authority to select a successor. Neither the member of the committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. At any time, the then record owners of a 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 to restore to it any of its powers and duties. The Architectural Control Committee is composed of Kandy W. Fellows.

2. Procedure. The Committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove within 30 days after 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.

PART D. GENERAL PROVISIONS

- 1. Term. The covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of ten years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten years unless and instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.
- 2. Enforcement. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenants either to restrain violation or to recover damages.
- 3. Severability. Invalidation of any of these covenants by judgement or court order shall in no ways affect any of the other provisions which shall remain in full force and effect.

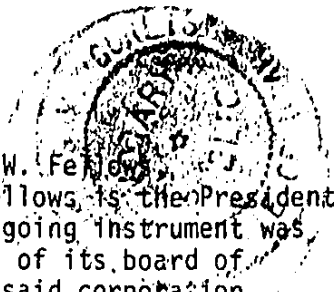
PART E. DEDICATION

- 1. Private Road. All property owners hereby acknowledge that entrance road known as Bennion View Court is a private access road, as of the date of recording these covenants, and maintenance of road shall be the responsibility of each lot owner. Maintenance of said Private Road is more particularly described in Exhibit "A" attached hereto.
- 2. Improvements. Curb, gutter, sidewalk, asphalt and subdivision drainage system have been installed with the intent they qualify for Salt Lake County dedication.
- 3. Procedure. Upon request and approval of Salt Lake County, all property owners hereby agree to cooperate in the dedication of road and improvements on road known as Bennion View Court together with installed drainage system.

RANDY FELLOWS CONSTRUCTION, INC.

BY *Randy W. Fellows*  
 Randy W. Fellows, President

STATE OF UTAH                    }  
   } ss  
 COUNTY OF SALT LAKE        }



On the 8th day of May, 1987, personally appeared before me Randy W. Fellows, who being by me duly sworn did say, that he, the said Randy W. Fellows, is the President of Randy Fellows Construction, Inc., and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its board of directors and said Randy W. Fellows duly acknowledged to me that said corporation executed the same and that the seal affixed is the seal of said corporation.

*Randy W. Fellows*  
 Notary Public

My Commission Expires: 8/22/88

My residence is: Salt Lake City, Utah

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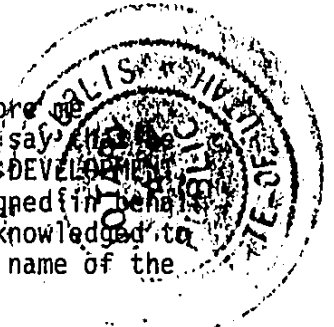
Dated this 30th day of April, 1987.

FRANSEN AND SHELBY REAL ESTATE AND  
DEVELOPMENT, a Utah General Partnership

BY: Alan B. Shelby  
Alan B. Shelby, General Partner

STATE OF UTAH            )  
                                  )ss  
COUNTY OF SALT LAKE )

On the 30th day of April, 1987, personally appear before me  
ALAN B. SHELBY, who being by me duly sworn or affirmed, did say that he  
is a General Partner of FRANSEN AND SHELBY REAL ESTATE AND DEVELOPMENT,  
a Utah General Partnership, and that said instrument was signed in behalf  
of said partnership by authority and said ALAN B. SHELBY acknowledged to  
me that he as such General Partner executed the same in the name of the  
partnership.



Alfred W. Cowlin  
Notary Public

My Commission Expires: 8-22-88

Residing in: Salt Lake City, Utah

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EXHIBIT "A"

1. The Lot Owners shall jointly maintain and repair the Private Road, including, but not limited to, snow removal, cleaning, surfacing and resurfacing and any other work which the majority of the Lot Owners reasonably determine to be necessary for the convenient use of the Private Road. All costs of maintenance and repairs to the Private Road shall be paid by the Lot Owners equally.

2. From time to time, the Lot Owners shall select by majority vote one of the Lot Owners to manage the maintenance and repairs to the Private Road. The owners shall be entitled to one vote only regardless of how many Lots they may own. In the event of a tie vote, the tie shall be broken by the then current manager.

3. The Manager shall be responsible for initially determining from time to time what maintenance or repairs are necessary to the Private Road. The Manager shall obtain no less than two bids for any maintenance or repairs which the Manager determines is necessary and submit those bids to the other Lot Owners. All Lot Owners shall then determine by majority vote whether to proceed with such maintenance or repairs, which vote shall be binding upon all Lot Owners. In the event of a tie vote, the tie shall be broken by the Manager. The Manager shall then assess each Lot Owner his share of the cost of the maintenance or repairs. In the event a Lot Owner fails to pay his share of the cost of repairs within 30 days after such costs are assessed, then the other Lot Owners shall have a lien upon that Lot then owned by the Lot Owner failing to pay his share of the costs of maintenance or repairs upon the recording of a Notice of Lien with the Salt Lake County Recorder's Office. Such lien may be foreclosed in accordance with the laws of the State of Utah relating to foreclosure of Mortgages. In any action brought to foreclose such lien, the prevailing party shall be entitled to recover all costs of suit, including reasonable attorney's fees.

4. This Agreement shall be binding upon and inure to the benefit of the Lot Owners and their successors to the ownership of the Lots.

5. Should legal action be brought to enforce, construe, terminate, rescind, cancel or recover for the breach of the provisions of this Agreement, the prevailing party shall be entitled to recover all costs of suit including reasonable attorney's fees.

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Recorded \_\_\_\_\_ at \_\_\_\_\_  
Request of Guardian Title Company  
KATIE L. DIXON, Recorder  
Salt Lake County, Utah  
By Edward Mike Deputy  
EDWARD MIKA

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