

WHEN RECORDED, PLEASE RETURN TO:

West Jordan City Attorney  
P O Box 428  
West Jordan, Utah 84084-0428

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DECLARATION OF RESTRICTIVE COVENANTS

5360658

Declaration of Restrictive and Protective Covenants, Agreements, Restrictions and Conditions affecting the real property known as EDENBROOKE SUBDIVISION PHASE D, according to the official plat thereof, executed by BRAEMAR CORPORATION, a Utah corporation, recorded \_\_\_\_\_ at the office of the Salt Lake County Recorder, which real property is more particularly described as follows:

Lots 29 through 37, inclusively, of the EDENBROOKE No. 5 PHASE "D" SUBDIVISION, according to the official plat thereof on file in the Office of the Salt Lake County Recorder.

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WHEREAS, the undersigned is about to sell lots of the above-described property and desires to subject the said property and lots, pursuant to a general plan of improvement, to certain restrictions, conditions, covenants, and agreements between itself and the several purchasers of said property as hereinafter set forth; and

WHEREAS, the undersigned desires to protect EDENBROOKE SUBDIVISION PHASE D, its surroundings and nature from undesirable encroachments, and to provide a means by which such character may be safeguarded and protected;

NOW THEREFORE, the undersigned declares that the above-described EDENBROOKE SUBDIVISION PHASE D is held and shall be sold, conveyed, leased, occupied, resided upon, hypothecated and held subject to the following restrictions, conditions, covenants and agreements between the undersigned and the several owners and purchasers of said property and their respective heirs, successors and assigns, which restrictions, conditions covenants and agreements shall inure to and be for the benefit of all purchasers of lots in the subdivision, their successors and assigns.

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28 OCTOBER 92 01:26 PM  
KATIE L. DIXON  
RECORDER, SALT LAKE COUNTY, UTAH  
WEST JORDAN CITY  
REC BY: REBECCA GRAY , DEPUTY

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1. Architectural Control Committee

A. Creation. An Architectural Control Committee consisting of three (3) members has been created by the undersigned for the purpose of approving, rejecting, and requiring modification of any plans or specifications for structures to be erected on lots in said tract and for the enforcement of the covenants and conditions herein specified, so that all structures and properties shall conform to the restrictions and general plans of the undersigned and of the committee for the improvement and development of the whole tract.

B. Members. The Architectural Control Committee, as of the date of these Restrictive Covenants, consists of the following:

David H. Schmidt  
4968 South Cowdell  
Salt Lake City, Utah 84118

Donna Schmidt  
4968 South Cowdell  
Salt Lake City, Utah 84118

Howard J. Schmidt  
105 Chris  
Elko, NV 89801

C. Representative and Compensation. A majority of the committee may designate a representative to act for it. Neither the members of the committee nor its designated representatives shall be entitled to any compensation for services performed pursuant to these Restrictive Covenants.

D. Vacancies. The undersigned may fill vacancies in the committee and remove members thereof as it so desires. However, when ninety percent (90.0%) of the lots in said tract have been sold (whether under contract or for cash), then, upon written designation by not less than eighty-five percent (85.0%) of those who are then owners of said tract ("Owners" being record title owners or purchasers under contract) designating some particular person or persons to serve as a member or as members of said committee, the undersigned will forthwith so appoint such person or persons, if necessary, remove from the committee an existing member or existing members to create vacancies for the new appointee or appointees; provided, however, that at least one (1) person designated by the undersigned shall always be a member of said committee unless the undersigned desires otherwise.

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E. Action. The Architectural Control Committee may act by affirmative vote of any two (2) of its members, and any authorization or approval made by the committee must be in writing and signed by at least two (2) members thereof. In the event the committee or its designated representative fails to approve or disapprove of plans and specifications only, within fifteen (15) days after plans and specifications have been submitted to them, then approval shall be deemed to have been given.

2. Mutual and Reciprocal Benefits

All of said restrictions, conditions, covenants and agreements shall be made for the direct and mutual and reciprocal benefit for each and every lot created and the owners thereof, and shall be mutual and equitable servitudes upon each of said lots in favor of each other lot and owner thereof on the aforesaid property and shall be reciprocal rights and obligations between the respective owners of all of the lots so created and shall be a privity of contract and estate between Grantees of said lots, their heirs, successors and assigns and shall, as to the owners of each lot in said tract, their heirs, successors and assigns, operate as covenants and conditions running with the land for the benefit of all other lots in said tract.

3. Terms of Restrictions

Each and all of the restrictions, conditions, covenants and agreements set forth herein shall continue in full force and effect and be binding until the first day of September 1999, upon which date the same shall be automatically continued for successive periods of ten (10) years each unless it is agreed by vote of the then record owners of a majority of the property owners to terminate and do away with the same; provided, however, that at any time after September 1, 1997, these restrictions, conditions, covenants and agreements may be altered or modified by the vote of the then record owners of a majority of the lots in the subdivision.

4. Improvements

A. Type of Structure. No building other than one (1) single-family dwelling house shall be erected on any of said lots, nor shall any house constructed on any of said lots be used for any purpose other than a dwelling house, except the Architectural Control Committee can allow to be allowed to be located in the area churches, schools, and playgrounds.

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

C. Approval. No building shall be erected, placed or altered on any lot until the construction plans and specifications and the plans showing the locations of the structure have been approved by the Architectural Control Committee as to quality of workmanship in materials, harmony of external design with its existing structures and as to the location with respect to topography and finish grade elevation.

D. Masonry. No structure shall be built with less than the front face being masonry unless West Jordan City Ordinances are changed to require otherwise.

E. Size. The minimum total single-family house size (excluding garage) shall be 1900 square feet, with 1300 square feet of finished area, with a minimum footprint of 1000 square feet with an attached 2-car garage. All house plans must be approved by the architectural control committee.

F. Lights. Developer will provide street lighting as required by West Jordan City.

G. Height. No structure shall exceed two stories above the ground level for living space.

H. Resubdivision. None of said lots may be resubdivided except that the undersigned, their successors or assigns may divide any of said lots so as to increase the size of adjoining lots or may divide any of said lots where one or more of said lots is, in the opinion of the undersigned, its successors and assigns, of such size and character that it may be divided into two (2) or more lots which will each be similar to other lots in said tract, and adequate in size and character to permit development similar to that on said other lots.

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I. Diligence in Building. When the erection of any residence or other structure is once begun, work thereon must be prosecuted diligently and it must be completed within a reasonable length of time.

5. Fences

No fence or wall shall be erected, placed or altered on any lot near to any street in the minimum building setback line unless prior approval is given by the Architectural Control Committee.

6. Pets, Animals, Etc.

No animals other than a reasonable and usual number of household pets shall be kept on any of said lots, and in no case shall horses, cows or other animals larger than dogs be kept on said lots. All owners of pets under this paragraph shall provide adequate fences, pens or houses for such animals in order to keep them from straying onto the properties of others. In addition, all property owners shall be required to maintain said pens or houses for their pets in a sanitary condition in order to prevent odor and the accumulation of breeding insects.

7. Signs

The following signs must be approved by the Architectural Control Committee: One sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales.

8. Oil and Mining Operations

No oil drilling, oil development operation, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted in or on 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.

9. Rubbish Control

No rubbish shall be stored or allowed to accumulate on any lot or property, improved or unimproved, in said subdivision. Rubbish shall include, but not be limited to, bushes or weeds, household wastes, and automobiles, campers, trailers, boats or parts thereof, which have been in a state of disrepair or unassembled for a period exceeding thirty (30) days. Trash, garbage

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or other wastes shall be kept in sanitary containers. All incinerators or other equipment for the storage or disposal of such rubbish shall be kept in a clean and sanitary condition. Each lot, whether improved or unimproved, shall be kept free of trash, weeds, rubbish 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.

10. Landscaping

Trees, lawns, shrubs or other plantings placed on the property shall be properly nurtured and maintained or replaced at the property owner's expense.

11. Obstructions

No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two and one-half feet (2.5') and six feet (6.0') above the roadway 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 twenty-five (25) feet from the intersection of the main lines, or in the case of a rounded property corner from the intersection at the street property line extended. The same sight line limitations shall apply on any lot within ten (10) feet from the intersection of the street property line with the edge of the driveway or pavement. No tree shall be permitted to remain within such distances of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

12. Easements

Such easements and rights-of-way shall be reserved to the undersigned, its successors and assigns, in and over said real property for the erection, construction, maintenance and operation of drainage pipes, irrigation pipes and ditches, conduits and pipes, conduits, poles, wires, and any other means of conveying to and from lots in said tract, gas, electricity, power, culinary and irrigation water, telephone, telegraph services, sewage and other things for convenience to the owners of lots in said tract as may be shown on the recorded plat, and the undersigned, its successors and assigns shall have the right to reserve any further necessary easements for said purposes in contracts and deeds to any or all of the lots shown on the recorded plat. No structure of any kind shall be erected over any of such easements, except upon written permission of the undersigned, its successors or assigns and the

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various utilities companies which may have said easements running in their favor.

13. Power Lines

All power and telephone lines must be placed underground from each house or other structure to the nearest transformer, pole or vault. No owner shall place or permit to exist any suspended overhead power or telephone lines of any kind.

14. Parking

No campers, boats or trailers shall be stored in excess of five (5) days in driveways, on the streets, or other areas in open view within the subdivision.

15. 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.

16. Penalties

A. Violation of any of the restrictions, conditions, covenants and agreements herein contained shall give the undersigned, their successors and assigns and the Architectural Control Committee the right to enter upon the property, upon or as to which said violations or breach exists, and summarily abate and remove at the expense of the owner, any erection, thing or condition that may be or exist thereon contrary to the provisions hereof without being deemed guilty of trespass, conversion or destruction of property.

B. The result of every action or omission whereby any restrictions, conditions, covenants or agreement is violated, in whole or in part, is hereby declared to be and constitute a nuisance and every remedy allowed by law against a nuisance, either public or private, shall be applicable against such result. This remedy shall be deemed cumulative and not exclusive.

C. Violation of any of the restrictions, conditions, covenants or agreements herein contained by any of the purchasers of said property or their heirs or assigns, shall give the right to any other owner of property in this subdivision, the Architectural Control Committee or the undersigned, their successors or assigns to prosecute any proceedings at law or equity against

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such purchaser or purchasers violating or attempting to violate any such covenant and either prevent him or them from so doing or to recover damages for such violation.

D. In the event the undersigned, the Architectural Control Committee or any property owner in this subdivision are successful in prosecuting any violation in these restrictive covenants, he may recover, in addition to any other damages, costs and expenses of the litigation, including reasonable attorneys' fees from the party found to be in violation thereof.

E. Nothing contained herein shall be construed to require the Architectural Control Committee, or the undersigned, to enforce any of the provisions contained herein by commencing legal action or otherwise; and nothing contained herein shall be construed to allow any owner of any lot in this subdivision, their heirs, successors or assigns to commence suit against said committee or the undersigned.

17. Voting

In voting pursuant to any applicable provision hereof, each lot owner of record shall be entitled to one (1) vote for each square foot of area owned by him and the action resulting from said vote shall be evidenced by a written instrument signed and acknowledged by such lot owners and the same shall be recorded in the County Recorder's Office of Salt Lake County, Utah.

18. Acceptance of Restrictions

All purchasers of property described above, or any portions thereof, shall, by acceptance of contracts or deeds for any lot or lots shown thereon or any portion thereof, thereby conclusively shall be deemed to have consented and agreed to all restrictions, conditions, covenants and agreements set forth herein.

19. Severability

It is expressly agreed that in the event any covenant or condition or restriction hereinbefore contained, or any portion thereof, is held invalid or void, said invalidity or voidness shall in no way affect any valid conditions, covenants or restrictions contained herein, all of which shall remain in full force and effect.

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20. Paragraph Headings

Paragraph headings and phrases at the beginning of certain paragraphs are inserted only as a matter of convenience and for reference, and in no way are, or are they intended to be, part of this Declaration nor are they in any way to define, limit or describe the scope or intent of the particular paragraph or paragraphs to which they refer.

IN WITNESS WHEREOF, the owner has caused its corporate name and seal to be hereunto affixed by its duly authorized officer this 6<sup>th</sup> day of April, 1992.

BRAMEMAR CORPORATION

*David Schmidt* President

ATTEST:

\_\_\_\_\_  
Secretary

STATE OF UTAH                    )  
  : ss.  
COUNTY OF SALT LAKE        )

On the 6<sup>th</sup> day of April, 1992, personally appeared before me David H. Schmidt, president of BRAEMAR CORPORATION, a Utah corporation, who, being by me duly sworn did say that the within and foregoing Declaration of Restrictive Covenants was signed on behalf of said corporation by authority of a resolution of its board of directors and the aforementioned David H. Schmidt duly acknowledged to me that said corporation executed the same and that the seal affixed is a seal of said corporation.

*Stephen G. Homer*

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