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KATIE L. DIXON
RECORDER, SALT LAKE COUNTY, UTAH
METRO NATIONAL TITLE
REC BY: DIANE KILPACK , DEPUTY

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

② THE COVE AT BEAR CANYON ~~XXXXX~~ SUBDIVISION

THIS DECLARATION, containing covenants, declarations and restrictions relating to Bear Canyon Cove Subdivision, to include any additions or annexations thereto that may hereafter be designated by the Declarant to be included, is made on the 11th day of FEBRUARY, 1993, by Bear Canyon Cove, L. C., the Declarant herein, for itself, its successors, grantees and assigns, with the full intent of creating and imposing covenants running with the land to which any person acquiring an interest in the land shall take it absolutely subject to the covenants, conditions and restrictions outlined herein and shall be aware that all other property within Bear Canyon Cove, L. C., as it now exists, or is subsequently increased by annexation or acquisition, shall be likewise subject to this Declaration.

The property which is initially subject to this Declaration is described on Exhibit 1 attached to this Declaration. It is believed that additional land may be added to the area owned or developed by the Declarant, and if and when adjacent land is acquired, the Declarant may, at its option, impose the Declarations imposed herein on the adjacent land by including it in the Bear Canyon Cove, L. C.

Declarant intends to sell fee title interest in the lots developed, together with proportionate interests in common areas,

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if any, that apply to each unit of development. The development may be expanded at a later date at which time these Covenants, Conditions and Restrictions may be adopted by reference.

ARTICLE I

DEFINITIONS

Section 1.01: "Property" or "Project" shall mean all the real property described above, consisting of all lots and common areas, if any, and shall include any and all annexations to the Bear Canyon Cove, L. C.

Section 1.02: "Lot" shall mean any plot of land or parcel shown upon any recorded subdivision map of the Property.

Section 1.03: "Owner" shall mean the record owner of a fee simple title to any lot which is a part of the Property.

Section 1:04: "Mortgage - Mortgagee - Mortgagor." Reference in this Declaration to a mortgage shall be deemed to include a deed of trust; reference to a mortgagee shall be deemed to include the beneficiary of a deed of trust; reference to a mortgagor shall be deemed to include the trustor of the deed of trust.

Section 1:05: "Family" shall mean a group of natural persons related to each other by blood or legally related to each other by marriage or adoption.

Section 1:06: "Committee" shall mean Declarant.

Section 1:07: "Streets" shall mean all dedicated streets to City of Draper.

ARTICLE II

GENERAL RESTRICTIONS AND REQUIREMENTS

Section 2:01: Land Use and Building Type. All lots shall be used exclusively for single family residential purposes. Except as may be specifically provided in Article III hereof, no building shall be erected, altered, placed or permitted to remain on any lot other than one detached single family dwelling with enclosed garage for at least two cars, and no lot may be divided, subdivided or separated into smaller parcels unless approved in writing by the Architectural Control Committee, which approval shall be granted in accordance with the guidelines found in this Declaration.

Section 2:02: Dwelling Size and Materials. No single story dwelling shall be constructed, altered, placed or permitted to remain on any lot unless the main floor area, exclusive of basement, open porches and garages, is 1,800 square feet or greater. No multi-story dwelling shall be constructed, altered, placed or permitted to remain on any lot unless the main floor and other floors, exclusive of basements, open porches and

garages is a total of 2,500 square feet or greater. Unless prior written approval is first given by the Architectural Control Committee, no artificial stone or thin brick and no logs may be used in the exterior construction of a dwelling. All dwellings must have at least 50% of the front elevation in masonry. The Architectural Control Committee may approve a home of a size smaller than is provided in this paragraph only where, after considering all relevant facts, it is determined to be clearly unreasonable, under the given circumstances, to require the larger size home. But in any event, the square footage shall not be less than 1,500 square feet of living area exclusive of porches, garage and basement. Written approval by the Committee must be given on the use of any aluminum siding materials. No dwelling shall be higher than thirty (30) feet from ground to roof line, and no part of the roof line shall exceed the thirty (30) foot restriction herein imposed.

Section 2:03: Building Location. No building walls or foundation shall be located on any lot nearer to the front lot line or nearer to the side street line than the minimum building set-back described under prevailing zoning. Notwithstanding any zoning requirements to the contrary, except where special written approval is first given, no building shall be located on any lot nearer than 30 feet to the front line, or nearer than 20 feet to any side street line, or nearer than 8 feet to any interior lot line, or nearer than 20 feet to the rear lot line.

On a limited number of the lots (see plat) a natural fault line exists. Declarant caused to be completed a geoseismic study for the benefit of the development and all lot owners. The engineer who conducted the study suggests no dwelling be located closer than ten feet to the fault line to provide adequate safety. The Salt Lake County Natural Hazardous Ordinance, Chapter 19.75, Section 19.75.080 only specifies that no dwelling be built astride a fault line. Based upon the geoseismic report, it is the suggestion of the engineer and the Declarant herein that no dwelling be built closer than ten feet to the fault lines. As mentioned, the fault lines are drawn on the final plat map of Bear Canony Cove Subdivision.

Section 2:24: Building and Landscaping Time Restrictions. The exterior construction of all structures shall be completed within a period of one (1) year following commencement of construction. The front yard of each lot shall be landscaped within a period of one (1) year following completion or occupancy of each dwelling, whichever shall occur first. Side and rear yards shall be landscaped within a period of eighteen (18) months following completion or occupancy of each dwelling.

Section 2:05: Fire Protection. Each residence shall have installed surrounding it a sprinkler system for irrigation purposes which shall water the outside perimeter of their property to also assist in fire protection. All residents shall

strictly comply with all state and city ordinances pertaining to fire hazard control. All stacks and chimneys from fireplaces in which combustibles, other than natural gas, are burned shall be fitted with spark arresters. Each residence shall have and maintain in operable condition at least 100 feet of garden hose, readily accessible, connected or immediately adjacent to a year-round water source. There shall be no exterior fires whatsoever except barbecue fires fueled by natural gas.

Section 2:06: Nuisances, Unreasonable Annoyance and Noxious Activities. No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which may be or may become an unreasonable annoyance, nuisance or danger to the neighborhood. Except for legitimate construction and maintenance purposes, no excessively loud noises shall be permitted in the project. Use of fireworks of any kind shall be absolutely prohibited.

Section 2:07: 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 written approval having been first obtained from the Architectural Control Committee; provided, however, that the restrictions of this paragraph shall not apply to any sign or notice seven square feet or smaller in size which states that the premises are for rent or sale. The Association may cause all

unauthorized signs to be removed. This section shall not apply to any sign used by Declarant or his agents in connection with the original construction and sale of the lots or homes.

Section 2:08: Antennas. All television and radio antennas or other electronic reception devices shall be completely erected, constructed and placed within the enclosed area of the dwelling or garage on the lot. Exceptions must first be approved in writing by the Architectural Control Committee. Any installation of a satellite dish shall be located so that it is obscured from view of the street or neighbors, by growth of plants or tasteful construction to obscure the dish.

Section 2:09: Animals. No horses or animals, other than typical household pets which do not constitute a nuisance, shall be allowed within the subdivision. Dogs and cats belonging to owners, occupants or their licensees or invitees within the Property must be kept within an enclosure (or on a leash being held by a person capable of controlling the animal). The enclosure must be maintained so that the animal cannot escape therefrom. Said household pets shall be limited in number to two (2) only of any particular species, except newborns up to the age of four (4) months of age. This area has game birds and deer and other wild animals who could be killed or harassed by pets which are allowed to roam without leash. Accordingly, this section will be strictly enforced.

Section 2:10: Storage of Vehicles and Materials. No truck larger than 3/4 ton, trailers, recreational vehicles, including campers, boats and motor homes and similar equipment, shall be permitted to remain upon any lot unless placed or maintained within a garage or carport or located behind the front set-back line of the residence. Recreational and other vehicles shall not be parked overnight on the street or in driveways in front of the residence front set-back line for more than twenty-four (24) hours, and shall be allowed to remain more than twenty-four (24) hours on the property described only if housed in a garage, carport, or located behind the front set-back line of the residence. Appropriate and reasonable screening may be required by the Architectural Control Committee. Failure to comply with the provisions hereof shall constitute a nuisance. No storage of articles, materials, equipment or vehicles of any nature is permitted in the front portion of any lot except that a reasonable number of regularly used passenger cars can be parked on driveway areas.

Section 2:11: Rubbish and Unsightly Debres, Etc. Notwithstanding any other provision in the Declaration, no Owner shall allow his lot to become so physically encumbered with rubbish, unsightly debris, equipment, or other things or materials so as to constitute any eyesore as reasonably determined by the Association. Within twenty (20) days of receipt of written notification by the Association of such failure, the Owner shall be responsible to make appropriate corrections.

Section 2:12: Temporary Structures, Etc. No structure of a temporary character, or trailer, camper, tent, shack, garage or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently, unless first approved in writing by the Architectural Control Committee and Declarant.

Section 2:13: Non-Residential Uses. No part of the Property shall be used for any commercial, manufacturing, mercantile, vending, or other such non-residential purposes. Provided, however, that professional and administrative occupations may be carried on within the residence so long as there exists no meaningful external evidence thereof. The Declarant, its successors or assigns, may use the Property for a model home-site, display, and sales office during the construction and sales period.

Section 2:14: Drilling Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon any lot, nor shall oil wells, tunnels, mineral excavations or shafts be permitted. No derrick or other structure designed for use in boring for oil or natural gas or water shall be erected, maintained or permitted upon any lot.

Section 2:15: Fences and Walls, Hedges and Screens. No fences, walls, or non-living screens shall be constructed on any

lot without written approval first having been obtained from the Architectural Control Committee, and in no event shall approval be given to pre-cast fences or chain link fences which utilize vinyl, wood or metal slats.

Front yard fences, walls and non-living screens are discouraged and require prior approval before construction. Such fences, walls and screens may be approved only following careful scrutiny by the Architectural Control Committee. No fence, hedge, wall, landscaping or screen of any kind shall be erected so as to constitute a traffic hazard, particularly near corners and street intersections.

Section 2.16: Landscaping and Parking Strips. Only such oak foliage shall be removed from each lot as is necessary for clearing the driveway, excavation for the foundation, and for lawn and patio areas. All front yards, side yards, and rear yards shall be landscaped. Areas covered with scrub oak will be considered landscaped. The parking strip between curb and sidewalk shall be maintained by each lot owner in a uniform manner with other parking strips in the subdivision. Only sod and street trees shall be permitted in the parking strip. Each lot shall be landscaped and maintained in such a manner so as to prevent any erosion thereof upon adjacent streets or adjoining property.

Section 2.17: Common Areas. Development of the common areas, if any, will not be done by the Declarant-Developer. The

land is made available to the purchasers of the lots to develop as they elect at a meeting called for by the lot owners. Development of areas will be at their complete discretion and cost with the understanding that any improvements must be approved by 75% of all lot owners. In the event that nothing is built in the common areas it shall be the responsibility of the lot owners, after the sale of the last lot, to care for and maintain the common areas and to share the expense of their maintenance, improved or unimproved on a pro rata basis.

Section 2:18: Environmental Concerns. All lots prior to obtaining a building permit shall have a lot placement plan submitted to Draper City that addresses soils, seismic conditions, re-vegetation of natural areas (indicating areas where natural vegetation is to be removed and plans for the replanting of those areas), and grading of the site including cuts and fills.

Section 2:19: Deviations. Deviations from the standards herein outlined may be allowed by the Architectural Control Committee and Declarant only for good cause shown. The decisions of the Committee on matters affecting aesthetics for the overall development shall be final.

ARTICLE III

ARCHITECTURAL CONTROL COMMITTEE

Section 3:01: Committee Appointment and Composition.

The Architectural Control Committee shall ultimately consist of three (3) members, who may or may not be lot owners within the Project. The Committee shall act by a majority vote of those present in any meeting duly called for conducting the official business of the Committee members. Notwithstanding anything to the contrary which may appear elsewhere herein, the Committee members shall be appointed only by the Declarant or its successor, which, at its option, may temporarily delegate or forever assign such powers and responsibilities, or other powers and responsibilities given to it by this Declaration, to the assignee. Such assignment shall be express and in writing and until such assignment, the assignee shall not possess any powers or responsibilities with respect to such Committee. No Committee members shall be entitled to any compensation for services performed pursuant to this Declaration. However, the Architectural Control Committee may, at its discretion, employ an outside professional architect or engineer or other consultant or professional to assist it in its functions and a reasonable fee (to be established by the Architectural Control Committee) may be charged to the lot owner for such services, in which event the provisions of Article VII shall be applicable. No members of the Committee shall be liable to any person for his decisions or failure to act in making decisions as a member of said Committee.

Section 3:02: Scope. No building, residence, dwelling, garage, carport, wind generation device, accessory building, or fence, wall, non-living screen or other structure or landscaping shall be commenced, erected, placed or meaningfully altered on any lot until the plans, specifications and plot plans showing the location and nature of such structure, building, landscaping or other improvement or meaningful alteration have been submitted to and approved in writing by the Architectural Control Committee, which may consider such factors as (but not limited to) the quality of workmanship and materials, design, harmony of external design with existing project structures, location with respect to topography and finish grade elevation, preservation and enhancement of the natural beauty of the area, and safety. The Committee shall endeavor to control the location of each residence to insure minimum interference with the views of other lots insofar as is practical, consistent with elevations and limitations outlined. Understanding that it cannot control all interference with views of other homes or aesthetic objections, the Committee will simply try to accommodate interested owners consistent with each owner's concerns, and expect a compromise to their respective objectives. The owners will be bound by that determination.

The Committee may condition such approval on the lot owner depositing cash in the sum of One Hundred Dollars (\$100.00) with the Architectural Control Committee, the purpose of which shall be to further ensure that the lot owner (1) fulfills his

responsibility to keep his lot in a condition so as to prevent the rubbish and debris which accumulates during the construction process from blowing or collecting on neighboring lots, and (2) reasonably cleans up his lot at or near the completion of the construction process. If the lot owner fails in either of these two responsibilities, the \$100.00 deposit may be kept by the Architectural Control Committee as a fine upon such lot owner or as liquidated damages. If any such failure is not remedied within fourteen (14) days after written notice thereof, the Architectural Control Committee may remedy such condition itself and in connection therewith it may have reasonable access to the lot and shall charge the lot owner for the reasonable cost of the remedy in which event the provisions of Article VII shall be applicable.

Section 3:03: Process of Approval. Plans and re-submittals thereof shall be approved, disapproved or otherwise acted upon in writing within forty-five (45) days. All plans and specifications and other materials shall be submitted in duplicate. One (1) set shall be returned to the lot owner. Failure of the Committee to respond to a submittal or re-submittal of plans or materials within forty-five (45) days shall be deemed to be an approval of plans as submitted or re-submitted.

If, after such plans and specifications have been approved, the improvements are altered, erected, or maintained

upon the lot otherwise than as approved by the Committee, such alteration, erection and maintenance shall be deemed to have been undertaken without the approval of the Committee having been obtained as required by this Declaration. After the expiration of one (1) year from the date of completion of any improvement, said improvement shall, in favor of purchasers and encumbrances, in good faith and for value, be deemed to comply with all of the provisions hereof unless a notice of such non-compliance or non-completion, executed by one member or more of the Committee, shall appear of record in the office of the County Recorder, or legal proceedings shall have been instituted to enforce compliance with these provisions. The approval of the Committee of any plans or specifications submitted for approval as herein specified for use on any residence shall not be deemed to be a waiver by the Committee of its right to object to any of the features or elements embodied in such plans and specifications, if or when the same features or elements are embodied in any subsequent plans and specifications submitted for approval as herein provided for use on other residences. Upon approval of the Committee acting in accordance with the provisions of this Declaration, it shall be conclusively presumed that the location and height of any improvement do not violate the provisions of this Declaration. Until later published, the address of the Committee may be obtained by contacting Bear Canyon Cove, L. C., 8669 S. Sugarloaf Circle, Sandy, Utah 84093, telephone number - 944-1952.

ARTICLE IV

EASEMENT, HILLSIDE DISTURBANCE AND FLOOD CONTROL

Section 4:01: Utility Easements. Easements for installations and maintenance of drainage facilities and public utilities are generally reserved over the front, rear, and side seven (7) feet of each lot. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may reasonably interfere with or damage utilities or drainage facilities. However, the Committee may approve a structure such as a fence or wall or landscaping where constructed at the lot owners' risk of having it dismantled, taken out, or destroyed and the original conditions restored where necessary because of the need for drainage or public utility servicing, installation, alteration or repairs by a utility company or as required by public authority.

Section 4:02: Flood Control Responsibility. Construction of berms, channels or other flood control facilities is the sole responsibility of the lot owner and shall be done in accordance with flood control district plans approved by Draper City and/or Salt Lake County Flood Control. Such construction shall commence at the time the lot is graded or otherwise altered from its natural state.

ARTICLE V

VIOLATIONS

Section 5:01: Committee's Powers of Enforcement. En-

forcement shall be accomplished by any lawful way, including proceeding at law or in equity against any person or persons violating or attempting to violate any provision herein, either to restrain violation or recover damages. To the extent reasonably possible, the violator shall be required to pay the expenses incurred therein, including reasonable attorney fees. No liability shall attach to the Committee in acting pursuant to the provisions of this Declaration.

If, after due notice, a lot owner fails to remedy a violation, an owner may (in addition to other lawful remedies available to it) cause such violation or condition to be remedied and the cost thereof shall be charged to the owner of the lot, in which event such costs shall be deemed a special assessment to such owner and shall attach to his lot; and shall be subject to levy, enforcement and collection by the Committee in accordance with the assessment lien procedure provided for in this Declaration at Article VII.

Failure to comply with any of the provisions in this Declaration or regulations adopted pursuant thereto shall be grounds for relief which may include, without limiting the same, an action to recover sums due for damages, injunctive relief, foreclosure of lien, or any combination thereof. The terms of these Covenants, Conditions and Restrictions shall be liberally construed to effectuate their purposes in creating conditions

that are supportive of maintaining the environment and a spirit of comity among neighbors, and any violation of this Declaration shall be deemed to be a nuisance or unreasonable annoyance. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provisions hereof.

Section 5:02: Enforcement by Others. Additionally and after reasonable notice in writing, an owner not at the time in default hereunder, or Declarant, shall have the option of bringing an action for damages, specific performance, or injunctive relief against any other defaulting owner, and in addition may sue to have enjoined any violation of this Declaration. Any judgment shall include a reasonable sum for attorney's fees in favor of the prevailing party. Each remedy provided in this Declaration shall be cumulative and not exclusive or exhaustive. The Committee shall have the right but not the obligation to pursue any complaint by a home or lot owner.

Section 5.03: Rights of Entry. The Committee shall have a limited right of entry in and upon all lots to view the exterior only of all residences for the purpose of assuring compliance with declarations herein only after reasonable notice to the owner.

ARTICLE VI

DURATION AND AMENDMENT

Section 6:01: Duration. This Declaration shall con-

tinue in full force for a term of fifty (50) years from the date hereof, after which time the same shall be automatically extended for successive periods of ten (10) years, unless a declaration of termination is recorded with the County Recorder, meeting the requirements of an amendment to this Declaration as set forth in Section 2 of this Article. There shall be no severance by sale, conveyance, encumbrance or hypothecation of an interest in any lot from membership in the Association as long as this Declaration shall continue in full force and effect.

Section 6.02: Amendment. Notice of the subject matter of a proposed amendment to this Declaration in reasonably detailed form shall be included in the notice of any meeting of the Owners at which meeting such amendment is to be discussed.

No amendment to Article VI shall be effective unless approved in writing by the record holders of encumbrances on unsold lots in the Project at the time of such amendment and by not less than seventy-five percent (75%) of the record owners of all lots at the time of such amendment, including lots owned by Declarant. All other amendments shall be effective only upon written approval by not less than seventy-five percent (75%) of record owners of all lots in the Project at the time of such amendments.

Nevertheless, Declarant may at any time amend the Declaration to qualify the Project with lending institutions, and

until the close of the escrow established for the sale by Declarant of its last lot in the Project (including lots in any annexations thereto), Declarant shall have the sole right to terminate or modify this Declaration by recordation of a supplement hereto setting forth such termination or modification. The "close of escrow" shall be deemed to be the date upon which a deed conveying the last lot in the project is recorded.

ARTICLE VII

MISCELLANEOUS

Section 7:01: Severability. Invalidation of any one of these covenants, or any portion thereof, by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

Section 7:02: Singular Includes Plural. Whenever the context of the Declaration requires same, the singular shall include the plural, and the masculine shall include the feminine.

Section 7:03: Covenants, Etc., Shall Run with the Land. All of the limitations, restrictions, easements, conditions and covenants herein shall run with the land and shall be binding on and for the benefit of all the Property and all parties having or acquiring any right, title or interest in the Property or any part thereof, and shall inure to the benefit of each owner and are imposed upon said real property as a servitude in favor of each parcel thereof as the dominant tenement or tenements.

Section 7:04: Liability. Neither the Declarant, its assignee, delegatee, or the Architectural Control Committee, shall be liable to any other person for any action or failure to act hereunder where such action or failure was in good faith.

Section 7:05: Annexation of Additional Property. Any real property may be annexed to the Project in the discretion of the Declarant, without the approval, assent or vote of the Association or its members. Such real property shall be made subject to this Declaration at the time it is annexed.

Section 7:06: Wild Life. This is a wildlife area. Lot owners should expect that wildlife will be in the area and likely on their ground. Lot owners may suffer some damage from deer, quail, and chukars, and should consider that in their landscaping. They should also control dogs from harassing deer and cats from wandering and, as a result, killing small animals and wild birds.

IN WITNESS WHEREOF, Declarant has executed this instrument the day and year first hereinabove written.

BEAR CANYON COVE, L. C.

By 
Its Manager

Terry C. Diehl

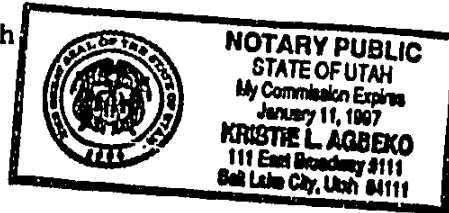
See Notary Acknowledgement on next page.

State of Utah, County of SALT LAKE: ss

On February 11, 1993, personally appeared before me TERRY C. DIEHL, who by me being duly sworn (or affirmed) upon oath did say that such person is its Manager of BEAR CANYON COVE, L. C., the company taht executed the above and foregoing instrument was signed in behalf of said Compa y by authority of the Board of Directors, and that the said TERRY C. DIEHL, duly acknowledged to me that said Company executed the same.

Kriste L. Agbeko
Notary Public

My Commission Expires: 1-11-97
Residing at: Salt Lake City, Utah



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