

WHEN RECORDED MAIL TO:

McWood/Cann II, L.C.
2897 East Water Vista Way
Sandy, Utah 84093

RECORDED _____

ENTRY NO. _____

5946111

5946111
10/18/94 3:57 PM 102.00
KATIE L. DIXON
RECORDER, SALT LAKE COUNTY, UTAH
DEPUTY - WI

DECLARATION OF RESTRICTIVE COVENANTS AND CONDITIONS OREC BY: S WEST

PHEASANT BROOK ESTATES
PHASE THREE

Declaration of Restrictive Covenants and Restrictions Agreements, Restrictions, Covenants, and Conditions affecting the real property known as PHEASANT BROOK ESTATES PHASE THREE, according to the official plat thereof, executed by McWOOD/CANNON II, L.C., a Utah Limited Liability Company (hereinafter referred to as "Declarant")

WITNESSETH:

WHEREAS, "Declarant" is the owner of certain real property, recorded; BOOK: PAGE: ENTRY: 5946111
In the office of the Salt Lake County Recorder, State of Utah, which real property is more particularly described as follows:

Pheasant Brook Estates Subdivision Phase III consisting of Lots 301 through 366. Inclusive, according to the official plat thereof on file in the office of the Salt Lake County Recorder.

Which includes the following legal description:

BEGINNING at a point south 00°05'37" west 2632.05 feet and south 89°54'23" east 1041.78 feet from the north quarter corner of section 31, township 3 south, range 1 east, salt lake base and meridian and running thence south 85°10'17" east 21.03 feet; thence south 51°39'57" east 86.07 feet; thence north 47°39'13" east 180.53 feet to a point on an 800.00 foot radius curve to the right (center bears north 42°32'34" east); thence northwesterly along the arc of said 800.00 foot radius curve to the right through a central angle of 02°28'46" a distance of 34.154 feet; thence north 47°39'13" east 148.22 feet; thence north 82°04'02" east 155.54 feet; thence north 05°01'38" east 554.02 feet; thence south 84°58'24" east 14.89 feet; thence north 05°01'38" east 250.30 feet; thence south 85°00'00" east 317.40 feet; thence south 05°00'00" west 71.30 feet; thence east 248.01 feet to a point on the west side of 700 east street; thence south 00°06'20" west 1218.02 feet; thence north 85°49'44" west 350.41 feet; thence south 05°00'00" west 348.11 feet; thence north 85°00'00" west, 772.38 feet; thence north 04°49'43" east 581.31 feet to the point of beginning.

Contains
27.361 Acres
88 lots

WHEREAS, the Declarant(s) are about to sell or have purchased 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 themselves and several purchasers of said property as hereinafter set forth; and

WHEREAS, the Declarant(s) desire to protect PHEASANT BROOK ESTATES PHASE THREE, its surroundings and nature from undesirable encroachments and to provide a means by which such character may be safeguarded and protected.

NOW, THEREFORE, the Declarant(s) hereby declare that the Lots of PHEASANT BROOK ESTATES PHASE THREE are held and shall be sold, conveyed, leased, occupied, resided upon, hypothecated and held subject to the following 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:

1. DEFINITIONS:

A. "Association" shall mean and refer to PHEASANT BROOK ESTATES PHASE THREE Home Owners Association, Inc., a Utah non-profit corporation, its successors and assigns.

B. "Owner", or "Owners" when referring to all or more than one Owner as the context requires, shall mean and refer to the record owner, whether one or more persons or entities, or a fee simple title to any Lot which is part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

C. "Property" shall mean and refer to that certain real property hereinabove described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

D. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. Such Common Area to be owned by the Association at the time of the conveyance of the first lot is more particularly described upon Exhibit "A" attached hereto and incorporated herein by reference.

E. "Lot" shall mean and refer to any parcel of real property shown upon any recorded subdivision map of the Property with the exception of any parcel, whether or not designated by lot number, which is herein designated as Common Area or any parcel which is designated as a protective strip to be retained by Declarant until such time as adjacent properties are developed, at which time such parcels shall be deeded to appropriate governmental authorities, the Association or the Owner(s) adjacent to such protective strips as Declarant deems appropriate. Such parcels designated as protective strips are set forth upon Exhibit "B" attached hereto and incorporated herein by reference.

F. "Declarant" shall mean and refer to McWood/Cannon II, L.C. a Utah Limited Liability Company, its successors and assigns, if such successors or assigns should acquire from the Declarant all of its rights and obligations of development.

G. "Person" shall mean and include an individual, a corporation, a partnership, a trust or any other legal entity.

H. "Committee" shall refer to the Architectural Control Committee of PHEASANT BROOK ESTATES PHASE THREE.

2. PROPERTY RIGHTS:

A. **Owner's Easements of Enjoyment.** Every Owner shall have a right an easement of enjoyment in common with all other Owners in and to the Common Area, and each portion thereof, which shall pass with the title to every Lot, subject to the following provisions:

i. the right of the Association to charge reasonable assessments and other fees for the maintenance of any improvements situated upon the Common Area, or any portion thereof;

ii. the right of the Association to suspend the voting rights and right of use of any Common Area or improvements thereon by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

iii. the right of the Association to enforce the payment by any Owner of the assessments made herein in accordance with the provisions herein;

iv. the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the owners; provided, however, that the Association may grant such easements as shall be necessary for the development of the Property without the consent of the Owners. Except with respect to easements as set forth above, no such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded.

B. **Delegation of use:** Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and other common facilities, if any, to the members of his family, his tenants, or contract purchasers who reside on the Property.

3. MEMBERSHIP AND VOTING RIGHTS:

A. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

B. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one Person holds an interest in any Lot, all such Persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

i. when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

ii. on January 1, 1998.

4. COVENANT FOR MAINTENANCE ASSESSMENTS:

A. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore or entering into any contract for a deed, whether or not it shall be so expressed in such contract or deed, is deemed to covenant and agree to pay to the Association all annual assessments or charges made by the Association. The annual assessments together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fee became due. The personal obligation for delinquent assessments shall not pass to an Owner's successor in title unless expressly assumed by such successors. In the event any such assessment is not paid when due as provided herein, the Association shall have the right to foreclose such lien against the Property for which the assessments is made as provided herein or to take other appropriate action to secure payment.

B. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote health, safety, welfare and common interests of the residents in the Property and for the improvement and maintenance of the Common Area, or any portion thereof, and especially for the maintenance and repair of the Water Underdrain System and Street Lights throughout the Subdivision.

C. Maximum Annual Assessment. Until January 1, of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Twenty-Five (\$25.00) Dollars per Lot.

i. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased by the Board of Trustees each year not more than Five (5%) Percent above the maximum assessment for the previous year without a majority vote of each class of the membership.

ii. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above Five (5%) Percent by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

D. Notice and Quorum for Any Action Authorized Under Section 4 C. Written notice of any meeting called for the purpose of taking any action authorized under Section 4 C shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or proxies entitled to cast sixty (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

E. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly, quarterly, or annual basis.

F. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the last Lot within PHEASANT BROOK ESTATES SUBDIVISION PHASE THREE. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Trustees of the Association shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Trustees of the Association. The Association shall, upon demand, and for a reasonable charge,

furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance. In the event that the Association fails to furnish a certificate as provided herein, within twenty (20) days of written request thereof, any purchaser of such Lot who has requested such certificate shall be exempt from the payment of assessments for a period of three (3) months or until such certificate is furnished, whichever period is greater.

G. Effect of Nonpayment of the Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve (12%) percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his lot.

H. Enforcement by Suit: The Association or Committee may cause a suit at law to be commenced and maintained in the name of the Association or Committee against an Owner to enforce each such assessment obligation. Any judgement rendered in any such action shall include the amount of the delinquency, together with interest thereon at the rate of eighteen percent (18%) per annum from the date of delinquency, court costs, and reasonable attorney fees in such amount as they court may adjudge against the delinquent Owner.

I. Enforcement by Lien: There is hereby created a claim of lien with power of sale on each and every Lot within the Subdivision to secure payment to the Association or Committee of any and all assessments levied against any and all Owners of such Lots under these restrictions, together with interest thereon at the rate of eighteen percent (18%) per annum from the date of delinquency, and all costs of collection which may be paid or incurred by the Association or Committee in connection therewith, including reasonable attorney fees. Each default shall constitute a separate basis for a demand or claim of lien or a lien, but any number of defaults may be included with a single demand or claim of lien. Such claim of lien shall be executed and acknowledged by any officer of the Association or Committee and shall contain substantially the following information:

- i. The name of the delinquent Owner;
- ii. the legal description and street address of the Lot against which claim of lien is made;
- iii. the total amount claimed to be due and owing for the amount of the delinquency, interest thereon, collection costs and reasonable attorney fees (with any proper offset allowed);
- iv. that the claim of lien is made by the Association or Committee pursuant to these Restrictions; and
- v. that a lien is claimed against the Lot in an amount equal to the amount stated.

Upon recordation of a duly-executed original or copy of such a claim of lien and mailing a copy thereof to the Owner, the lien claimed therein shall immediately attach and become effective in favor of the Association or Committee as a lien upon the Lot against which such assessment was levied. Such a lien shall have priority over all liens or claims created subsequent to the recordation of the claim and lien thereof, except that only tax liens for real property taxes on any Lot, assessments on any Lot in favor of any municipal or other governmental assessing unit, and the liens which are specifically described in Section 4(j) hereinafter. Any such lien may be foreclosed by appropriate action in court or in the manner provided by law for the foreclosure of a realty mortgage or trust deed as set forth by the laws of the State of Utah, as the same may be changed or amended. The lien provided for herein shall be in favor of the Association or Committee and shall be for the benefit of advancing such costs. The Association or Committee shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease,

mortgage and convey any Lot. In the event such foreclosure is by action in court, reasonable attorney fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law. Each Owner, by becoming an Owner of a lot in PHEASANT BROOK ESTATES PHASE THREE hereby expressly waives any objection to the enforcement and foreclosure of this lien in this manner.

J. Subordination of the Lien to Morigages: The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage deed of trust. Sale or transfer of any Lot shall not affect the assessment lien. however, the sale or transfer of any Lot pursuant to mortgage foreclosure (trust deed power of sale) or any proceeding in lieu thereof but only with respect to a mortgage or deed of trust, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

5. ARCHITECTURAL CONTROL COMMITTEE:

A. Creation: An Architectural Control Committee consisting of the 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:

Edward T. Woodger
2897 E. Water -Ista Wy.
Sandy, UT
84083

Tracey Cannon
24 South 600 East
Suite #4
Salt Lake City, UT
84102

L.S. McCullough
#800 Kennecott Bldg.
Salt Lake City, UT
84133

C. Representative and Compensation: A majority of the committee may designate a representative to act for it. The members of the committee, or its designated nominee, shall be entitled to 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%) of the lots in said tract have been sold (whether under contract or cash), then, upon written designation by not less than Eighty-Five Percent (85%) of those who are then owners of lots in 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.

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 nominee 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, however, that irrespective of such approval or lack of it, no building, wall, fence, swimming pool, or other structure shall be erected or be allowed to remain on any residential site which violates any of the covenants or restrictions contained in the Declaration. Approval will be given on the *Plan Approval/Revision/Rejection* form given by the committee.

6. MUTUAL AND RECIPROCAL BENEFITS:

All of said restriction, 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.

7. TERM OF RESTRICTION:

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 May 2009, 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 for a majority of the property owners to terminate and do away with the same; provided, however, that at any time after May 1, 2009, 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.

8. IMPROVEMENTS:

A. Type of Structures: 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 located in the area churches, schools, playgrounds and any additional buildings can be constructed but must not exceed 1300 sq. ft. and they shall conform to Draper City ordinance and be approved by the Architectural Control Committee.

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

C. Approval: For the purpose of further insuring the development of the lands in the Subdivision as a residential area of high standards, Declarant reserves the right to control the buildings and structures placed on the residential site. The owner or occupant of each site by acceptance of title thereto, or by taking possession thereof, covenants and agrees that no building, lamp post, swimming pool, or other structure shall be placed upon said premises unless and until the plans and specifications and plot plan have been approved in writing by Declarant or its nominee. Application for approval of the Architectural Control Committee shall be accompanied by a One Hundred (\$100.00) Dollar filing fee. Two (2) copies of the complete plans and specifications of any proposed structure must be submitted to the Architectural Control Committee for approval on the *Request for Plan Approval* form (or forms) that have been adopted by the Committee for such purposes, and shall fully comply with all construction guidelines that may have been adopted for construction within PHEASANT BROOK ESTATES PHASE THREE. At least one (1) copy of the Plans and Specifications shall be retained by the Committee. Each such building, lamp post, swimming pool, or other structure shall be placed on the premises only in accordance with the plans and specifications and plot plan so approved in writing. Refusal or approval of plans and specifications may be based on any ground, including purely aesthetic grounds, which in the sole and uncontrolled discretion of the Declarant shall deem sufficient. No alteration of the exterior appearance (including without limitation, the color of any buildings or structures) shall be made without like written approval. All buildings and other structures must be approved in writing by Declarant or its nominee.

Standards: The Architectural Control Committee shall have the right to refuse to approve any plans or specifications or grading plans which are not suitable or desirable, in its opinion, for aesthetic or other reasons, or in so passing upon such plans, specifications and grading plans, and without any limitations of the foregoing, it shall have the right to take into consideration the suitability of the proposed building or other structure and of the materials of which it is to be built, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings, and the effect of the building or other structure as planned on the outlook from the adjacent or neighboring Property. All subsequent additions to or changes or alterations in any building, fence, wall or other structure, including exterior color scheme, shall be subject to the prior approval of the Committee. No deviations in or from such plans and specifications, once approved, shall be made without the prior written approval of the Committee. All decisions of the Committee shall be final and no Owner or other party shall have recourse against the Committee or Association for the Committee's refusal to approve any such plans and specifications or plot plans, including lawn area and landscaping.

- i.* In connection with said approval, complete plans and specifications of all proposed buildings, structures (including all concrete and masonry walls, and exterior alterations, together with detailed plans showing the proposed location of the same on the particular building site, shall be submitted to the Declarant, or its nominee, before construction or alteration is started, and such construction or alteration shall not be started until written approval thereof is given by the Declarant or its nominee.
- ii.* All plans and specifications for such approval must be submitted at least fifteen (15) days prior to the proposed construction starting date.
- iii.* As to all improvements, construction and alterations within the property, the Declarant, or its nominee, shall have the right to refuse to approve any design, plan or color for such improvements, construction or alterations, which is not suitable or desirable in the Declarant's opinion, for any reason, aesthetic or otherwise, and in so passing upon such design, the Declarant, or its nominee, shall have the right to take into consideration the suitability of the proposed building or other structure, and the material of which it is to be built and the exterior color scheme to the site upon which it is proposed to erect the same, the harmony thereof with the surroundings, and the effect or impairment that said structures will have on the view of surrounding building sites, and any and all facts, which in the Declarant's opinion, shall affect the desirability or suitability of such proposed structure, improvements or alterations.
- iv.* Without any way limiting the generality of any of the foregoing provisions of the this Section, the Architectural Control Committee or any member thereof may, but is not required to, consult with or hear the views of any Owner with respect to any plans, drawings, specifications or any other proposal submitted to the Committee for review.
- v.* The approval by the Architectural Control Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the Committee, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.
- vi.* Neither the Homeowners' Association nor the Architectural Control Committee, nor any director of the Association or member of the Committee shall be liable to any Owner or to any other party for any damage, loss or prejudice suffered or claimed on account of:
 - a.* approval or disapproval of any plans, drawings or specifications, whether or not defective;
 - b.* the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications;
 - c.* the development of any Property within the Subdivision; or
 - d.* the execution and filing of any estoppel certificate, whether or not the facts therein are correct; provided, however, that with respect to the liability of an Owner, such certificate has been issued in good faith on the basis of such information as may be easily available.

D. Size: The ground floor area of the main structure, (rambler) one-story not including open porches and garages, shall not be less than 1,600 square feet, except that a two-story home shall not have less than 2,200 square feet and a minimum of 1,300 square feet on the ground floor area. Three (3) and three (4) level homes must have not less than 1,850 square feet finished. This can be achieved by counting the upper two (2) levels and 1/2 of the third level. A two (2) car garage either attached or detached with not less than 500 square feet is required and Declarant would recommend three (3) car garages. Home size may be reduced by 100 square feet, if a three (3) car garage is built. Any auxiliary building must be so designed and constructed as to be compatible in appearance with the main building.

E. Height: No structure shall exceed two stories above the ground level for living space or be more than thirty-five (35) feet in height, without prior written approval of the Architectural Control Committee and Draper City.

F. Construction: When the erection of any residence or other structure is once begun, work thereon must be completed within a reasonable length of time (six months shall be reasonable). Initial erection of any residence must begin within two (2) years of closing of said Lot. No building shall be erected upon any residential site so that any part thereof, including eaves and overhangs, shall be:

i. closer than twenty-five (25) feet to the front boundary line of said premises which extends along a platted street in the Subdivision;

ii. closer than ten (10) feet to any side boundary line; and

iii. closer than twenty (20) feet to any rear boundary line of said premises.

G. Masonry: No structure shall be build with less than 25% brick or stone, and no structure shall be build with less than 100% of all the faces of the structure with either brick, stone or stucco, (with at lease fifty (50%) percent of the front being either brick or stone), unless otherwise approved by the Architectural Control Committee. No log houses shall be constructed.

H. Siding: Limited Siding for special trim design areas may be approved by the Architectural Control Committee, amounting to no more than fifteen (15%) of the surface; however, soffit or fascia sections will be approved.

I. Resubdivision: None of said Lots may be resubdivided.

9. FENCES AND LANDSCAPING

A. No fence or wall shall be erected, placed or altered on any Lot near to any street in the minimum building setback line, except on corner lots, no walls, fences or hedges will be permitted within twenty-five (25) feet of the property line as measured to either street, except for required retaining walls, unless prior approval is given by the Architectural Control Committee. No wall or fence except a decorative wood, stone or brick fence not exceeding six feet in height measured from the adjoining ground surface inside the fence, may be erected or maintained on any Lot.

B. Landscaping of front yard and all other portions of the Lot facing any street including parkways will be completed within one year of occupancy. This will include sod and at least three (3) two inch trees, twelve (12) two gallon shrubs, and twelve (12) five gallon shrubs. Landscaping will also include two (2) trees of a type and size approved by the Architectural Control Committee, and paid for by Buyer, to be placed in the parkways as directed by the Architectural Control Committee. Landscaping will also including one (1) outdoor light with electric photo cell of a type and size approved by the Architectural Control Committee, and paid for by Buyer, to be placed as directed by the Architectural Control Committee.

C. Boundary planting along any lot lines except trees with single trunks shall not be permitted to grow higher than six (6) feet.

D. All owners shall likewise maintain their hedges, plants, shrubbery, trees, and lawns in a neat and trim condition at all times.

E. The surface grade or elevation of the various lots and other residential sites in the Subdivision shall not be substantially altered or changed in any manner which would affect the relationship of such Lot or other residential sites adjoining, or which would result in materially obstructing the view from any other lot or other residential site in the Subdivision.

10. PETS, ANIMALS, ETC.:

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 purposes.

11. UTILITIES:

All electric, television, cable, radio and telephone line installments and connections from Lot Owner's property line to residence or structures shall be placed underground.

12. SIGNS:

No advertising sign (except one of not more than five (5) square feet "For Rent" or "For Sale" sign per parcel), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on the premises, nor shall the premises be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Lot or any resident thereof. Provided, further, however, the foregoing covenants shall not apply to the business activities, signs and billboards or the construction and maintenance of buildings, if any, of the Declarant, its agents and assigns during the construction and sale period, which are approved by the Architectural Control Committee.

13. RUBBISH CONTROL:

No rubbish shall be stored or allowed to cumulate 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 for a period exceeding thirty (30) days. Trash, garbage or other wastes shall be kept in a clean and sanitary condition and shall be screened by adequate planting or fencing as herein permitted so as to conceal from view of neighboring Lots and streets. 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.

14. 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 upon 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.

15. ANTENNAE:

No radio aeriels or ham radio broadcast or receiving apparatus, shall be erected, maintained, or placed on any residential site. Rotary beams or other similar devices shall not be constructed on any residential site.

16. NON-PERMITTED PARKING:

No campers, boards, boat-trailers, house-trailers, automobiles, trucks, motor homes, trailers, or horse trailers shall be stored in excess of five (5) days in driveways, on streets, or other areas in open view within this subdivision. Any of the above vehicles or any part thereof, not in actual use shall be stored or placed behind a fence, in a garage or other fully enclosed space.

17. MAIL BOXES:

All mail box types and locations so specified shall be such as to meet all requirements of the Post Office Department. Dents, rust or other unsightly damage to mail boxes should be promptly corrected.

18. EASEMENTS:

Easements for installation and maintenance of utilities and drainage are hereby reserved on each Lot as shown on the final recorded plat. No structure of any kind shall be erected over any of such easements, except upon written permission of the Declarant, its successors or assigns and the various utility companies which may have said easements running in their favor.

19. 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.

20. BREACH OR VIOLATION OF COVENANTS:

A. In the event of a violation or breach or attempted violation or breach of any of these covenants, restrictions, limitations, conditions or agreements by any person or concern claiming by, through or under Declarant, or by virtue of any judicial proceedings, Declarant or the owner of any Lot or residential site in the Subdivision, or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel compliance with the terms hereof or to prevent such violation or breach.

B. In addition to the foregoing right, whenever there shall have been built on any lot in the Subdivision any structure which is in violation of these restrictions, to enter upon the property where such violation exists and summarily abate or remove the same at the expense of the owner, who, on demand, shall reimburse Declarant, or its nominee, for the cost thereof; and such entry and abatement or removal shall not be deemed a trespass.

21. FAILURE TO ENFORCE:

The failure to enforce any right, reservation, covenant, restriction, limitation, condition or agreement herein contained, however long continued, shall not be deemed a waiver of the right to do so thereafter, either as to the breach or violation involved or as to any similar breach or violation occurring prior or subsequent thereto, and no such failure shall bar or affect the endorsement of any such right, reservation, covenant, restriction, limitation, condition or agreement as to any such breach or violation thereof. The invalidation by any Court of any reservation, covenant, restriction, limitation, condition or agreement herein contained shall in no way affect any of the other provisions hereof and the same shall remain in full force and effect.

22. RECOVERY:

In the event that the Declarant, Architectural Control Committee or any property owner in this subdivision are successful in prosecuting any violation of 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.

23. 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 to which they refer.

IN WITNESS WHEREOF, the undersigned Declarant has hereunto set its hand and seal this 17th day of October, 1994.

[Signature]
McWOOD/CANNON II, L.C.
Edward T. Woodger,
General Manager

State of Utah)
) SS.
County of Salt Lake)

On this 17th day of October, 1994, before me, personally appeared Edward T. Woodger, Declarant, and who acknowledged that he is authorized, as general manager, for and on behalf of said Limited Liability Company, McWood/Cannon II, L.C., to sign the above and foregoing Declaration of Covenants, Conditions, and Restrictions of the PHEASANT BROOK ESTATES PHASE THREE Subdivision as a free and voluntary act for the uses and purposes therein set forth, and who duly acknowledged to me that he executed the same.

[Signature]
Notary Public

My Commission Expires: 07-17-96
Residing at: Salt Lake City, Utah

NOTARY SEAL
EDWARD T. WOODGER

BK 7038 PG 2449

EXHIBIT "A"

DECLARATION OF RESTRICTIVE COVENANTS AND CONDITIONS OF PHEASANT BROOK ESTATES PHASE THREE

A. Underground Underdrains for the removal of water located throughout PHEASANT BROOK ESTATES PHASE THREE and the obligation of maintenance of same.

B. Maintenance of any Detention Ponds within PHEASANT BROOK ESTATES PHASE THREE not maintained by Draper City.

C. Maintenance of Street Lights and any Extra Electrical Costs not covered by Draper City in PHEASANT BROOK ESTATES PHASE ONE AND PHASE THREE and in conjunction with the other phases in PHEASANT BROOK ESTATES, as they are developed.

D. Maintenance of center island and side areas of Golden Pheasant Drive, 3rd East (Entrance to Subdivision, including detention ponds and walls located therein), and any of the areas along Willow Springs Drive and the grassy area to the north and west of Lot #125, for beautification and maintenance to allow for annual flowers, shrubs, lawn, and other plantings as approved by the Homeowners Association.

E. PHEASANT BROOK ESTATES PHASE THREE Association may add any other appropriate items that they wish to add with regards to the Common Area as they see fit so long as it is voted upon at the annual meeting, and is voted for by two-thirds (2/3) of the members of the Association at the time of said vote.

F. PHEASANT BROOK ESTATES PHASE THREE Association will eventually be combined with all other PHEASANT BROOK ESTATES PHASES, as they are completed, into One Association for the items as described above in this Exhibit A. In conjunction with this recodation of DECLARATION OF RESTRICTIVE COVENANTS AND CONDITIONS OF PHEASANT BROOK ESTATES PHASE THREE, the PHASE THREE ASSOCIATION shall allow any owners of PHASE ONE of Pheasant Brook Estates who do not have an Association, at their option, to join the PHASE THREE ASSOCIATION, and thus be a part of the combined Association of all phases of Pheasant Brook Estates.

EXHIBIT "B"

**DECLARATION OF RESTRICTIVE COVENANTS AND CONDITIONS OF PHEASANT BROOK
ESTATES PHASE THREE**

A. PHEASANT BROOK ESTATES PHASE THREE contains no PROTECTIVE STRIPS.