

FILED AND RECORDED FOR

APR 20 1978  
Clyde J. Till  
MAY 25 1978

740207

- Platted  Indexed
- Photocopied  Card File
- Microfilmed  Abstracted

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF HUNTING CREEK SUBDIVISION NO. 1

Margaret R. Cottle

THIS DECLARATION is made and executed this 15th day of May, 1978 by HUNTING CREEK CORPORATION, a Utah Corporation, of Weber County, Utah, hereinafter sometimes referred to as "Developers").

RECITALS:

WHEREAS, Developers are the owners of that certain tract of Property more particularly described in Article II of this Declaration; and

WHEREAS, Developers desire to create on said Property a residential development; and

WHEREAS, Developers desire to provide for the preservation of the values and amenities in said development, and to this end and for the benefit of the Property and of the Owners thereof, Developers desire to subject the Property described in Article II of this Declaration to the covenants, restrictions and easements hereinafter set forth.

NOW THEREFORE, for the foregoing purposes, Developers declare that the Property described in Article II of this Declaration is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions and easements hereinafter set forth.

I. DEFINITIONS

When used in this Declaration (including that portion hereof headed "Recitals") the foregoing terms shall have the meaning indicated.

1. Declaration shall mean and refer to this Declaration of Covenants, Conditions and Restrictions.

2. Plat shall mean and refer to the subdivision plat of Hunting Creek Subdivision No. 1, executed and acknowledged by Developers on the 30th day of March, 1978, prepared and certified to by J. R. Anderson (a duly registered Utah Land Surveyor holding Certificate No. 2430) and heretofore filed for record in the office of the County Recorder of Weber County, Utah.

3. Property shall mean and refer to a portion of the real property covered by the Plat, a description of which is set forth in Article II of this Declaration.

4. Lot shall mean and refer to any of the 21 separately numbered and individually described parcels of land shown on the Plat and identified as Lot Nos. 1 through 21, inclusive.

5. Living Unit shall mean and refer to a structure or portion of a structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements located on the Lot concerned which are used in conjunction with such residence.

6. Owner shall mean and refer to the person who is the owner of record (in the office of the County Recorder of Weber County, Utah) of a fee

or an undivided fee interest in any Lot, or a contract purchaser of such interest. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term Owner shall not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

## II. PROPERTY DESCRIPTION

The Property which is and shall be held, transferred, sold, conveyed, and occupied subject to the provisions of this Declaration consists of the following described real property situated in Weber County, State of Utah.

### BOUNDARY DESCRIPTION

A part of the NW 1/4 of Section 5, and the NE 1/4 of Section 6, T6N, R1W, SLB&M, U. S. Survey: Beginning at a point which is West 516.62 ft., and N 76°51'30" W 702.26 ft., along the East line of U.S. Highway 30-S, 89 & 91; <sup>From the N 1/4 corner of said Sec. 5,</sup> thence East 836.45 ft., thence S 0°08'10" W 28.50 ft., thence East 115.00 ft., thence N 86°39'42" E 60.11 ft., thence East 112.77 ft., thence North 55.00 ft., thence N 82°31'28" E 239.59 ft., thence N 61°38'07" E 81.55 ft., thence S 32°25" E 130.00 ft., thence S 12°47'30" E 69.69 ft., thence S 30°40'53" E 115.00 ft., thence S 62°31'46" W 99.47 ft., thence S 24°15'35" E 107.95 ft., thence West 522.69 ft., thence N 54°00'40" W 74.03 ft., thence West 115.00 ft., thence N 0°08'10" E 91.50 ft., thence West 626.60 ft., thence Westerly to the left along the arc of a 227.50 ft. radius curve 106.64 ft. (LC = 105.67 ft.) to the East line of said highway. thence N 26°51'30" W 236.00 ft. along said East line to the point of beginning. Contains 8.60 acres.

EXCLUDING all presently existing or to be constructed or installed sewer lines, water mains, gas lines, electrical conduits, telephone lines, and related facilities to the extent they are located outside the Lots included within the above-described tract.

RESERVING UNTO DEVELOPERS, however, such easements and rights of ingress and egress over, across, through, and under the above-described tract and any improvements now or hereafter constructed thereon as may be reasonably necessary for Developers (in a manner not inconsistent with the provisions of this Declaration) to construct a Living Unit on each and every Lot. If, pursuant to this reservation, the above-described tract or any improvement thereon is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements, the reservation hereby effected shall, unless sooner terminated in accordance with its terms, expire 20 years after the date on which this Declaration is filed for record in the office of the County Recorder of Weber County, Utah.

ALL OF THE FOREGOING IS SUBJECT to all liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all patent reservations and exclusions; all instruments of record which affect the above-described tract or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible easement and rights-of-way; and all easements and rights-of-way of record, including those shown on the Plat.

III. ANNEXATION OF ADDITIONAL PROPERTY

Any real property may be annexed to and become subject to this Declaration by the method set forth hereinafter in this Article III, as follows:

Section 1. Annexation Without Approval and Pursuant to General Plan. Any real property may be annexed to and become subject to this Declaration without the approval, assent or vote of the Owners providing and on the condition that a Supplementary Declaration of Covenants, Conditions and Restrictions (hereinafter "Supplementary Declaration") covering said additional real property described shall be executed and recorded by Developers, the owner of said real property, or their successors and assigns. The recordation of said Supplementary Declaration shall constitute and effectuate the annexation of the said real property described therein, making said real property subject to this Declaration.

Section 2. Supplementary Declarations. The additions authorized under the foregoing Section 1 of this Article III shall be made by filing of record a Supplementary Declaration, or similar instrument, with respect to the additional property which shall extend the plan of this Declaration to such property.

Such Supplementary Declaration contemplated above may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added property and as are not inconsistent with the plan of this Declaration. In no event, however, shall any such Supplementary Declaration revoke, modify or add to the covenants established by this Declaration within the existing property, except as hereinafter otherwise provided.

The recordation of said Supplementary Declaration shall constitute and effectuate the annexation of the said real property described therein, making said real property subject to this Declaration.

IV. LOTS AND RESTRICTIONS

1. Maintenance of Living Units. Each Living Unit shall be maintained by the Owner thereof so as not to detract from the appearance of the Property and so as not to affect adversely the value or use of any other Living Unit.

2. Use of Lots and Living Units. Each Lot is intended to be improved with a Living Unit and each Lot is restricted to such use. Each Living Unit shall be used only as a single-family residence. No Lot or Living Unit shall be used, occupied, or altered in violation of law, so as to jeopardize the support of any other Living Unit, or so as to create a nuisance or interfere with the rights of any Owner.

3. Setback Requirements. No Living Unit or other structure shall be located on any Lot nearer than 30 feet to the front lot line, or nearer than 30 feet to the rear lot line, or nearer than an aggregate of 24 feet to the side yard lines (the smallest side yard line of which must not be less than 10 feet), except that the side yard line facing the street on a corner lot shall be 20 feet; provided, however, notwithstanding anything contained herein to the contrary, if a Living Unit is to be placed on two or more Lots owned and used by the same persons, the side yard set back may be waived by the Architectural Control Committee.

4. Accessory Buildings. Living Units may include the following accessory buildings and structures not used for residential occupancy: private garage for the storage of not more than four (4) automobiles owned by persons residing on the premises; small greenhouses for private use only; private swimming pools; pergolas and arbors; and private tennis courts.
5. Garage Required. Every Living Unit must have a minimum of a two-car garage. If the garage is separate from the dwelling, the same must be approved by the Architectural Control Committee.
6. Driveways. Driveways for Living Units must be large enough to accommodate two (2) parked automobiles side by side.
7. Minimum Square Footage and Cost. No Living Unit shall be permitted on any Lot at a cost of less than \$45,000.00 (excluding the cost of the Lot) based upon cost levels prevailing on the date this Declaration is recorded, it being the intention and purpose of this Declaration to assure that all Living Units shall be of a quality of workmanship and materials substantially the same or better than that which can be produced on the date this Declaration is recorded at the minimum cost stated herein for the minimum permitted size. The minimum square footage requirements for a one-story dwelling shall be 1,200 square feet of finished interior feet, exclusive of garages, patios, balconies, decks or other semi-external space, and the minimum square footage requirements for a dwelling of more than one story shall be 1,750 square feet of finished interior feet, exclusive of garages, patios, balconies, decks or other semi-external space.
8. Fences. No fences will be allowed in the front yards or in side yards from the average front line of the dwelling forward or in side yards of corner lots which face a street, except with the consent of the Architectural Control Committee.
9. Non-Residential Use. No part of a Lot shall be used for any commercial, manufacturing, mercantile, storing, vending, or other such non-residential purpose. Developers, their successors or assigns, and the owners of any tract annexed pursuant to Article III hereof, may use a Lot for a model home site, display and sales office during the construction and sales period.
10. Signs. No sign or billboard of any kind shall be displayed to the public view on any portion of a Lot, except one sign for each building site, of not more than eighteen (18) inches by twenty-four (24) inches, advertising the property for sale or rent or except signs used by Developers, their successors or assigns, to advertise the Property during the construction and sales period.
11. Quiet Enjoyment. No noxious or offensive trade or 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, or which shall in any way interfere with the quiet enjoyment of each of the Owners of his respective Living Unit or which shall in any way increase the rate of Insurance.
12. Temporary Structure and Equipment. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently. No trailer, camper, boat, truck larger than 3/4 ton, unregistered vehicle, or similar equipment shall be permitted to remain upon any Lot unless placed or maintained within a garage or carport or parked to the rear of the average front line of the dwelling.

13. Animals. 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 on the Lots provided they are not kept, bred or maintained for any commercial purpose or kept in unreasonable numbers. Notwithstanding the foregoing, no animals or fowl may be kept on a Lot which results in an annoyance or are obnoxious to residents in the vicinity.
14. Oil Development. 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, or mineral excavations or shafts be permitted upon the surface of any Lot.
15. Garbage Removal. All rubbish, trash and garbage shall be regularly removed from the Lots and shall not be allowed to accumulate thereon. All clotheslines, refuse containers, woodpiles, storage areas and machinery and equipment shall be prohibited upon any Lot unless obscured from view of adjoining Lots and streets by a fence, building, or appropriate screen.
16. Electronic Antennas. No television, radio, or other electronic antenna or device of any type shall be erected, constructed, placed or permitted to remain on any of the Living Units or structures on the Lots unless and until the same shall have been approved in writing by the Architectural Control Committee.
17. Ponds or Reservoirs. No ponds, reservoirs or ditches (except swimming pools) shall be allowed on any Lot.
18. Exception for Developers. Notwithstanding the restrictions contained in this Article IV, for the twenty (20) year period following the date on which this Declaration is filed for record in the office of the County Recorder of Weber County, Utah, Developers shall have the right to use any Lot or Living Unit owned by them in furtherance of any construction, marketing, sales, management, promotional, or other activities designed to accomplish or facilitate improvement and/or sale of all Lots owned by Developers.
19. Division of Lots. Lots may not be further subdivided by the Developers or by the Owners and no Owner shall have the right to sell or convey less than a full-size lot, as recorded.
20. Height. No Living Unit or structure shall be higher than two (2) stories from any one elevation and shall not exceed thirty-five (35) feet from the lowest finished grade elevation contiguous to the Living Unit or structure.
21. Foundations. All Living Units shall be set on permanent foundations.
22. Completion. All Living Units shall be completed on the exterior within eighteen (18) months from the start of construction.
23. Plumbing and Electrical. No Living Unit shall be occupied until plumbing and electrical work are substantially completed.
24. Slope and Drainage Control. No Living Unit, 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 and all improvements in them shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

25. Landscape. Each Lot must be landscaped within three (3) years after substantial completion of the Living Unit, and the landscaping plans must be approved by the Architectural Control Committee.

#### V. ARCHITECTURAL CONTROL

1. Architectural Control Committee. The Architectural Control Committee shall consist of Grant R. Stewart, Diane C. Stewart and Charles H. Stewart. The function of the Architectural Control Committee shall be to insure that all improvements and landscaping within the Property harmonize with existing surroundings and structures. A majority of the Architectural Control Committee may designate a representative to act for it. In the event of the death or resignation of any member of the Architectural Control Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Architectural Control Committee, nor its designated representative, shall be entitled to any compensation for services performed pursuant to this Article V.
2. Submission to Committee. No Living Unit, accessory or addition to a Living Unit, landscaping, or other permanent improvement shall be constructed, built, placed or erected on a Lot, or any portion thereof, and no alteration, repainting or refurbishing of the exterior of any Living Unit or accessory shall be performed without the prior written consent of the Architectural Control Committee. Any Owner desiring to construct, build, place or erect a Living Unit, accessory or addition to a Living Unit, landscaping, or other improvement on a Lot, or any portion thereof, or desiring to alter, repaint or refurbish the exterior of any Living Unit or accessory or other improvement, shall submit a written application for approval of such improvement to the Architectural Control Committee and in connection therewith shall submit complete plans and specifications for the proposed improvement or improvements, together with a reasonable processing fee.
3. Standard. In deciding whether to approve or disapprove plans and specifications submitted to it, the Architectural Control Committee shall use its best judgment to insure that all improvements, construction, landscaping, and alterations on Lots within the Property conform to and harmonize with existing surroundings and structures, and that the improvements are designed and located upon a Lot so as to minimize the disruption to the natural land forms and vegetation cover.
4. Approval Procedure. Any plans and specifications submitted to the Architectural Control Committee shall be approved or disapproved by it in writing within thirty (30) days after submission. In the event the Architectural Control Committee fails to take any action within such period it shall be deemed to have approved the material submitted. The Architectural Control Committee shall have the right to disapprove any application in the event said application and the plans and specifications submitted therewith are not of sufficient detail, or are not in accordance with the provisions herein set forth, or if the design or construction of the proposed improvement is not in harmony with the existing surroundings and structures, or if the design and the plans for construction do not include sufficient safeguards for preservation of the environment, including natural land forms and vegetation cover, or for any other reason the Architectural Control Committee may deem in the best interest of the Property. The decision of the Architectural Control Committee shall be final, binding and conclusive on all of the parties affected.
5. Construction. Once begun, any improvements, construction, landscaping, or alterations approved by the Architectural Control Committee shall be diligently prosecuted to completion.

6. No Liability for Damages. The Architectural Control Committee shall not be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Article V.

7. Enforcement. The Architectural Control Committee shall have the right to enforce the breach of any provision of this Declaration.

#### VI. UTILITIES

1. Sewage. Sewage shall be into the Harrisville City Sewage System and shall be used by the individual owners under the rules and regulations prescribed by the city and the cost of connections and use thereof shall be borne by each Lot Owner.

2. Public Utilities. All public utilities, including electric power, telephone communication and natural gas (if any), shall be underground and shall be used by the individual Owners under the rules and regulations prescribed by the company furnishing the public utility when and as said public utility is made available to each Lot Owner, and the cost thereof shall be borne by each Lot Owner.

3. Secondary Water System. There shall be sold with each lot sold or resold shares of stock in the Hunting Creek Irrigation Company which company has been established to own and operate a non-profit, user-owned pressure irrigation system to supply irrigation water to all lots in this subdivision and to all lots in future subdivisions created by the owners adjacent to this subdivision.

Each Lot Owner agrees to comply with the rules and regulations and to pay the charges and fees of that irrigation company in their use or ownership of that water company stock and use of the irrigation water on their lot.

No irrigation water will be applied to any of the land except through nozzles, sprinklers and comparable equipment. No irrigation by flooding will be performed. Agents of the irrigation company which supplies water for the land have the right of access along all easements established by the plat of the subdivision to repair and maintain the company irrigation lines and valves and to enforce this provision and all rules and regulations of that irrigation company.

#### VII. MISCELLANEOUS

1. Development Plans. Developers intend to continue to subdivide, improve, and otherwise develop property in the area of this Property into lots, common areas, condominiums, cluster housing, planned unit developments and other forms of development which may directly or indirectly affect Owners' investment.

2. Developers' Rights Assignable. The rights of Developers under this Declaration or in any way relating to the Property may be assigned.

3. Interpretation. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provisions hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders. The invalidity or unenforceability of any

portion of this Declaration shall not affect the validity or enforceability of the remainder hereof. This Declaration shall be liberally construed to effect all of its purposes. Notwithstanding anything contained herein to the contrary, the Architectural Control Committee reserves the right to grant a variance from these restrictions to any Owner when a literal enforcement thereof would work an undue hardship or prevent utilization of the best features of a Lot. By way of example only but not by way of limitation, the Architectural Control Committee may approve a dwelling of less square footage than required in paragraph IV. 7, above, provided that said plans and specifications otherwise meet the approval of the Architectural Control Committee. Said variance shall not conflict with any applicable county, state or federal regulation.

4. Covenants to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Developers, all parties who hereafter acquire any interest in a Lot, and their respective grantees, transferees, heirs, devisees, personal representatives, successors and assigns, for a period of twenty (20) years from the date on which this Declaration is filed for record in the office of the County Recorder of Weber County, Utah, at which time said Declaration shall be automatically renewed for successive periods of ten (10) years unless by a vote of a majority of the then Owners of Lots it is agreed to change said Declaration in whole or in part. Each Owner or occupant of a Lot shall be subject to the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration. By acquiring any interest in a Lot, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

5. Enforcement. Developers or other persons to whose benefits these restrictive covenants enure may prosecute any proceedings at law or in equity against any persons violating or attempting to violate any of the provisions hereof and may prevent such persons from committing such violations and may recover damages or seek other relief for such violations. A waiver of a breach of any of the restrictive covenants contained herein shall not be construed as a waiver of any succeeding breach or violation thereof or of any other restrictive covenant. In the event legal action is necessary to enforce any of these restrictive covenants, such as conformance to a restriction, then the prevailing party shall be entitled to expenses of enforcement, including reasonable attorney's fees.

6. Effective Date. This Declaration and any amendment hereof shall take effect upon its being filed for record in the office of the County Recorder of Weber County, Utah.

EXECUTED the day and year first above written.

DEVELOPERS:

HUNTING CREEK CORPORATION

*Grant R. Stewart*  
GRANT R. STEWART, President

*Diane C. Stewart*  
DIANE C. STEWART, Secretary

STATE OF UTAH )  
COUNTY OF WEBER ) SS.

On the 15th day of May, 1978, personally appeared before me Grant R. Stewart and Diane C. Stewart who being by me duly sworn did say, each for himself, that he, the said Grant R. Stewart is the President, and she, the said Diane C. Stewart, is the Secretary of Hunting Creek Corporation, 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 Grant R. Stewart and Diane C. Stewart each duly acknowledged to me that said corporation executed the same.

*[Signature]*  
Notary Public

Commission Expires 1-30-79  
Residence in Kayville, Utah