

**DECLARATION OF MYSTIC COVE
PROTECTIVE COVENANTS AND BUILDING RESTRICTIONS**

THIS DECLARATION OF PROTECTIVE COVENANTS AND BUILDING RESTRICTIONS "Declaration" is made and executed this 26th day of NOVEMBER, 1997, by MYSTIC COVE DEV., a Utah General Partnership, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the developer of that certain parcel of real property (hereinafter sometimes referred to as the "Project") located in Utah County, Utah, and more particularly described as:

See Exhibit "A" attached hereto and incorporated herein by reference.

WHEREAS, Declarant has constructed, or is in the process of constructing, upon the subject property a Development, consisting of various improvements, all of such construction having been, or is to be, performed in accordance with the plans and specifications contained in the Official Subdivision Plat Maps of the Development; and

WHEREAS, Declarant has obtained the acknowledgment and consent to this Declaration by all record owners of said parcel of real property, as well as the consent of all parties possessing liens effecting any portion of the subject property, which, by their consents, attached hereto and by this reference made a part hereof, said owners and lien owners hereby join in the submission of this property; and

WHEREAS, Declarant desires and intends to sell fee title to the individual lots contained in said Project to various purchasers, subject to the protective covenants and building restrictions contained herein.

DECLARATION

NOW, THEREFORE, for such purposes, Declarant hereby makes the following Declaration containing protective covenants and building restrictions relating to this Project which shall be enforceable equitable servitudes, where reasonable, and shall run with the land and be binding on all parties having any right, title or interest in the Project or any lot therein, their heirs and assigns, and shall inure to the benefit of each Owner thereof:

Name of the Project. The name by which the Project shall be known is Mystic Cove.

I. Dwellings

A. Size

1. Single-story

Single-story homes shall have the following minimum square feet of above-grade living area, exclusive of garages, porches, steps, patios, decks, walkways and basements.

Lots 4-17, inclusive	2400 square feet
Lots 3,18-26 and 58-64, inclusive	2200 square feet
All remaining lots	1800 square feet

2. Two-story

Two-story homes shall have the following minimum square feet of above-grade living area, exclusive of garages, porches, steps, patios, decks, walkways and basements with at least the following footage on the main level.

Lots 4-17, inclusive	2800 square feet with 1500 sq. ft. on main level
Lots 3,18-26 and 58-64, inclusive	2600 square feet with 1300 sq. ft. on main level
All other lots	2200 square feet with 1100 sq. ft. on main level

B. Materials

1. Exterior

Dwelling exterior of lots 4-17 shall be constructed of brick, stone, with no more than 10% stucco, lots 3,18-26 & 58-64 shall be brick, stone with no more than 25% stucco. The remaining lots will be brick, stone with no more than 50% stucco, (high-grade synthetic type), or a combination thereof. The relative proportions and application of material shall be consistent on all sides of the house. No other types of finish materials are allowed.

2. Windows

Wood windows or vinyl windows of high-quality are encouraged. High-quality aluminum windows may be used if approved by the ACC. (The exterior frame of the wood windows may be clad in heavy-duty aluminum.)

3. Roofing

Preferred roofing material is tile. A high-grade of architectural asphalt roofing (minimum 25-year guarantee) may be permitted if approved by the ACC.

4. Soffits & Facia

Aluminum soffit and facia material may be used.

5. Architectural Control Committee Approval

Note that the use of all exterior building material, including, but not limited to those explicitly mentioned in 1.B, are subject to approval by an Architectural Control Committee in order to guarantee that the quality, color, appearance and usage of the materials is conducive to protecting the investment of all property owners. Organizations and duties of the Committee ("ACC") are discussed in detail in III below.

C. Architecture

1. General Style

- a. To protect the investment of homeowners in this subdivision, homes of outstanding design are requisite. Designs shall be limited to those prepared by licensed architects or architectural firms. All designs, exterior materials and colors are subject to approval by the ACC.
- b. No modular homes, round homes, dome homes, log homes, earth homes, mobile homes, steel homes, aluminum homes, bi-levels, homes with split entries or multiple split stories shall be built or erected. Solar homes or envelope homes may not be built.
- c. In accordance with local zoning ordinance, all dwellings are to be single-family residences; therefore, under no circumstances shall any auxiliary entrance(s) be designed so as to give the appearance, in any degree, of a duplex or multi-family dwelling.

- d. Homes shall not exceed two stories above grade, except that bonus-type attic rooms or lofts may be allowed within otherwise existing roof space so long as they do not have undue prominence or give the appearance of a third full story.

2. Roof Pitch

The minimum roof pitch for all roof surfaces on the main portions of the dwelling shall be 6 on 12, and the maximum pitch shall be 12 on 12. Steeper or gentler pitches may be allowed in limited amounts where architecturally mandated (such as on top of a turret, or a covered porch) if the appearance is judged proportionate and appropriate by the ACC.

3. Roof-mounted structures

Any roof-mounted structures, devices, flues, vents, intakes or exhaust ports must be situated on the back side of the house so as not to be visible above the roof line from street viewpoints.

4. External Mechanical Equipment

Evaporative cooling devices ("swamp coolers") will be allowed, however, they must be located in accordance with restrictions given in I.C.3 above. Central heating/cooling related devices (condensers, compressors, fresh-air induction ports, etc.) shall not be located in front of houses, and side-yard installations must be reasonably screened from street view.

5. Ceiling Height

9' ceilings on the main level are encouraged.

6. Garages

All dwellings shall have as an integral part of the structure a minimum of a three-car garage and not more than a four-car garage. (This does not exclude the possibility of additional garage space in an outbuilding, subject to the conditions of II.C below. The use of outbuildings for additional garages, storage or recreational vehicles and maintenance equipment rather than storing such items outside is encouraged.) Carports are not allowed.

7. Location and Orientation

No dwelling shall be located on any lot nearer to the front lot line or nearer to the side street line than the minimum building setbacks as required by Highland City, and in no event shall the front setback be diminished below 35', nor side setbacks below 20'. Dwellings shall be oriented to face toward the street on which the lot fronts. Corner lots may choose the street upon which their dwelling will front, except that dwellings must front on the streets within the subdivision.

II. Exterior Improvements

A. Mailboxes

The Developer may designate a style and brand of mailbox which shall be installed by the Lot Owner. Junk objects, wagon wheels, milk cans, and like objects are categorically excluded from use in mailbox or mailbox enclosure designs. Mailboxes are to be provided at the homeowner-s expense. Lot Owners may construct a brick enclosure for mailboxes providing the brick matches that of the house.

B. Outbuildings

1. Detached accessory buildings such as additional garages, storage for recreational vehicles, or storage for yard maintenance equipment shall be allowed, and are encouraged, subject to approval by the ACC, if said buildings:
 - a. Meet all applicable zoning requirements with respect to size, location, or any other requirement, including the avoidance or recorded easements;
 - b. Conform in design and materials with the primary residential home on the lot (barn structures constructed of high-quality wood materials may be allowed); and
 - c. They are not located adjacent to the front setback of the lot or closer than 10' to either the dwelling or another outbuilding.

D. Antennae & Satellite Dishes

No radio, shortwave, television, nor any like-purpose antennae shall be installed on the exterior of any dwelling, outbuilding, or roof thereof, nor at any location on the lot. Satellite TV dishes may be installed in they 1) are not within the front or side yards, and 2) the location and screening of view has been approved by the ACC.

E. Landscaping

1. Trees

- a. Trees shall be encouraged in the homeowner's landscaping, but the Lot Owner shall not plant trees such as Siberian Elms, Russian Olives or similar "trash trees". Existing trees of substantial size and good health should be preserved.
- b. In order to establish a desirable appearance for the subdivision as a whole, certain of the above-mentioned trees shall be of a particular type and shall be planted at designated street side locations; the type and location of such trees will be specified by the ACC.
- c. Over time, all trees shall be maintained in a save condition (removal of dead wood, etc.) to prevent damage or injury from broken or falling tree limbs. For safety reasons, trees adjacent to public sidewalks or street curbs shall be pruned and trimmed to remove branches below the height of 6; that extend over or near the sidewalk or curb.

2. Planter Strip Maintenance

The planter strips between street curbs and sidewalks in front yards (or side yards of corner lots) shall be maintained in an aesthetic manner and so as to pose no safety hazard to pedestrians, bicyclists, or motor vehicles.

3. Completion Requirements

- a. The front and side yards of each lot shall be landscaped with at least a grass lawn and sprinkling system within a period of 6 months following completion or occupancy of the dwelling, whichever occurs first.

- b. Rear yards shall be landscaped with at least a sprinkling system and grass lawn within a period of 18 months following completion or occupancy of the dwelling, whichever occurs first. Rear yards must extend until, at a minimum, the total landscaped area on the lot reaches 20,000 square feet or the entire lot, (less footprint of buildings, driveways and walkways).
- c. In any event, the minimum landscaped area shall include any portions of the lot adjacent to a street.
- d. The time limits given in the above paragraphs may be reasonably extended to overcome restrictions caused by weather or season which would prohibit proper installation of materials or which would compromise the survivability of plant materials.

4. Landscaping Design

The general design and nature of materials for landscaping shall be approved by the ACC before installation.

a. Maintenance and Weed Control

All owners shall endeavor to maintain landscaped portions of their lots in a reasonable state of upkeep and orderliness so as not to detract from the appearance of the subdivision. Also, portions of any lot not yet landscaped shall be maintained so as to avoid unsightly infestation with weeds; such weed growths shall also be controlled as they may constitute a fire hazard during certain seasons of the year.

b. Fencing

- i. All fences, walls, and hedges are not to exceed 6' in height; Fences, walls, and hedges in side yards which face a street may not be placed closer than 10' to the side lot line. Fences or walls may not be built forward of the 35' front setback line. Concrete-block walls are prohibited. Rail fences shall be constructed of vinyl. All fence or wall materials and designs must be approved by the ACC.
- ii. In all cases, homeowners agree to abide by pertinent local zoning ordinances, both in letter and intent, especially as they relate to clear-sight driving safety conditions on corner

lots or near driveways potentially obscured by curves in the roadway.

c. Driveways and Walkways

All driveways and walkways forward of the 35' front setback line shall be constructed of concrete, brick, flagstones, or similar high-quality materials, and not of asphalt. Appropriate adaption of this provision to situations involving driveways or sidewalks which access the sideyard of a corner lot will be determined by the ACC.

III. Architectural Control Committee

A. Organization

Except for the initial Committee which consists of Jim Rooney, Don Reed and Tim Aalders or their assigns, the Architectural Control Committee shall consist of five members, the majority of which shall constitute a quorum and the concurrence of the majority shall be necessary to carry out the duties incumbent on the Committee. In the event of the death or resignation of any of the members, the surviving members of the Committee shall have full authority to appoint another person to fill the vacancy. Except for the initial members appointed to the committee, all members of the Committee must be residents of the subdivision at the time of their appointment. Any member changing his/her residence to a location outside of the subdivision shall be disqualified from further participation and shall declare a vacancy. At such time that all lots owned by the initial developer are sold, said developer will appoint five residents of the subdivision to stand as the Architectural Control Committee.

B. Compensation and Term of Service

Committee members serve without pay and as a public service to the neighborhood, with the intent of preserving the subdivision's property value, general safety, and quality of life for the mutual enjoyment and benefit of all residents. Residents of the subdivision shall accord them cordiality and respect as compensation for their sacrifices, even when resolving conflicts. Term of service is of indeterminate length, except that a 2/3 majority vote of all lot owners (one vote per lot) may remove any Committee member from service, or any Committee member may resign at any time for any reason.

C. Duties

The duties of the Committee shall include the following;

1. Approval of all construction plans for dwellings or outbuildings, including but not limited to the materials, colors, design, and placement of said structures.
2. General approval of landscaping designs, materials, and plantings.
3. Granting of variances from the standards of these covenants (such variances shall be allowed only if good cause is shown and the net result does not detract from the quality of the subdivision).
4. Exercise of enforcement procedures against lot owners willfully in noncompliance with any of the provisions of these protective covenants.
5. Appointment of Irrigation Control Committee members.
6. Any and all other duties, tasks, obligations and responsibilities at specifically mentioned anywhere in these protective covenants.

D. Authority

It is understood that the Committee has the authority to render judgement in the performance of its duties on whatever basis is available with the intent of preserving what it feels are the best interest of all of the property owners in the subdivision. These shall include, but not be limited to, aesthetics, reasonable protection of views, etc. All decisions of the Committee shall be final and binding upon all parties involved.

E. Indemnification

Because Committee members serve without pay as a public service to the neighborhood, any liability incurred due to an oversight or implied mistake that might arise due to the action/inaction of the Committee or any of its members while attempting in good faith to carry out the functions of the Committee will be exempt from any civil claims brought by residents of the subdivision, or their invitees. Therefore, such Committee members will be held harmless to any such action and exempt from any civil recourse either intended or implied to any of the Committee members while serving in the capacity of the Committee, or for the judgments that they may render during the course of their service.

F. Procedures

1. Vote of Majority

The agreement of a quorum (or majority) of Committee members shall be required to execute official business or decisions of the Committee. Members of any quorum so transacting business shall affix their signatures to any plans they approve or correspondence describing their actions in any other matter. (The only exception shall concern actions by the initial Committee, which requires only the signature of any one of the principals of the initial developer, Mystic Cove Development).

2. Keeping of Records

The Committee shall keep on file records indicating all official action taken, containing, at a minimum, the date of action, names of signatories to the approval of said action, and a brief description of the action itself, including any non-obvious or mitigating factors involved in the decision process. The Committee shall also keep on file a copy/record of all complaints/requests received by them for their consideration or enforcement. Copies of the records of official action shall be given to each party concerned with the particular action, unless such copy is declined or the action affects all lot owners.

3. Timeliness of Action

The Committee shall endeavor to respond to all requests, approval reviews, or complaints within 45 days of their receipt of construction documents or written notice of other requests or complaints. This time may be extended due to extenuating circumstances, such as personal tragedies, affecting members of the Committee, or if notice of probable delay is given by the Committee upon receipt of actionable request.

4. Explanation of Rejections

Whenever the Committee, in the course of examining proposals which require its approval (e.g., new construction plans), renders a judgment to reject said proposals, in whole or in part, the Committee shall arrange to meet personally with the affected parties, explain its reasoning, and suggest alternatives or adjustments which might make the proposal acceptable.

IV. New Construction

A. Preliminary Plan Approval

1. For purposes of judgment by the ACC, preliminary plans shall include as a minimum the following information (to which further requests may be appended by the Committee);
2. Plot plan to scale of entire lot with buildings located and elevation of floors shown above or below a designated reference point on the street.
3. Specifications of all materials to be used on the exterior of the residence.
4. Elevation drawings of all sides of the house and any detached outbuildings, clearly showing the usage of exterior construction materials.
5. The ACC may approve or reject any or all portions of the proposed preliminary plans, at its sole discretion. Judgments will be rendered in accordance with procedures and prerogatives described in III above.

B. Final Plan Approval

For purposes of judgement by the ACC, final plans shall include as a minimum the following information (to which further requests may be appended by the Committee);

1. Plot plan to scale showing the entire lot, buildings, garages, walks, drives, fences, carriage lights, retaining walls, with elevations of the existing and finished grades and contours including those at the outside corners of the buildings and at adjacent property lines and street fronts, and elevations of floors from a designated reference point on the street.
2. Detailed elevations of the exterior of all buildings, indicating all finish materials and showing existing and finished grades.
3. Adequate details of lamp-posts, mailboxes, windows, carriage lights, etc. as required for approval according to provisions of these covenants.
4. A copy of these covenants signed by the contractor, or signed written statement, showing that he/she has read them and will abide by them. It is hereby noted that contractors building spec homes are responsible to pass a copy of these covenants to the buyer of such a home.

5. The ACC may approve or reject any or all portions of the proposed final plans, in its sole discretion. Judgments will be rendered in accordance with procedures and prerogatives described in IV above.
6. One set of working plans for new or remodel construction projects shall be kept by the Committee until the proper completion of the construction project, at which time the said plans will be returned to the owner.
7. Repair of Improvements Damaged by Construction

Lot owners shall be responsible for the repair or replacement of any sidewalk, curb, gutter, road surface, utility stub-ins or other improvements that are damaged during construction of the owner's house or other structures due to heavy machinery, cement trucks, tractors, etc., or by any other means.

V. Miscellaneous

A. Gender

The singular, wherever used herein, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations, trusts or individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

B. Invalidity

The invalidity of any provisions of this Declaration, or any portion thereof, shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration and, in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

C. Waivers

No provision contained in the Declaration shall be deemed to have been waived by reason of any failure to enforce it, irrespective of the number of violations which may occur.

D. Topical Headings

The topical headings contained in this Declaration are for convenience only and do not define, limit or construe the contents of the Declaration.

E. Effective Date

This Declaration shall take effect upon recording.

IN WITNESS WHEREOF, the Declarant has executed this Declaration this 26th day of November, 1997.

ATTEST:

MYSTIC COLO DEVELOPMENT
By: [Signature]
Title: GENERAL PARTNER

STATE OF UTAH)
) : ss.
COUNTY OF Salt Lake)

On the 26th day of November, 1997, personally appeared before me, a Notary Public, Don Reed, who being by me duly sworn, did say that they are the General Partner and Developer, respectively, of Mystic Cove Dev., a Utah General Partnership, and the foregoing instrument was signed on behalf of said partnership.

My Commission Expires: 1-27-98

[Signature]
Notary Public
Residing at: Midvale Utah

