

WHEN RECORDED, RETURN TO:

Mr. Mark M. Mabey
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185 South State Street, Suite 360
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5846154
06/07/94 10:48 AM 25.00
KATIE L. DIXON
RECORDER, SALT LAKE COUNTY, UTAH
FIRST AMERICAN TITLE
REC BY: B GRAY , DEPUTY - WI

5846154
06/09/94 2:42 PM 25.00
KATIE L. DIXON
RECORDER, SALT LAKE COUNTY, UTAH
FIRST AMERICAN TITLE
REC BY: D KILPACK , DEPUTY - WI

DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS FOR MILLCREEK CANYON

Recorded on the 27th day of MAY, 1994
Book 9405, Page 0150, as Entry No. 5834282

Records of Salt Lake County, Utah.

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, the undersigned being the owner of the following described real property situated in Salt Lake County, State of Utah, to-wit:

Commonly known as MILLCREEK CANYON in consideration of the premises and as part of the general plan for improvement of the property comprising the MILLCREEK CANYON subdivision, the undersigned does hereby declare the property hereinabove described, subject to the restrictions and covenants recited.

PART A
RESIDENTIAL AREA COVENANTS

1. Planned Use and Building Type. No lot shall be used except for residential purposes. No building or structure shall be erected, altered, placed, or permitted to remain on any lot other than single family dwellings not to exceed two stories in height with a private garage for not less than three vehicles.

2. Architectural Control. No building shall be erected, placed, or altered on any lot until the construction plans and specifications and a plan showing the location of the structure upon the lot have been approved by the Millcreek Canyon Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and to location in respect to typography and finish grade elevation. No fence or wall shall be erected, placed or altered on any lot nearer to a street than the minimum building setback line less similarly approved. Approval shall be as provided in Part B.

DECLARATION OF COVENANTS, CONSITIONS, AND RESTRICTIONS ARE BEING RE-RECORDED TO REFLECT THE CORRECT MONTH OF THE RECORDED PLAT.

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3. Dwelling Quality and Size. No dwelling shall be permitted on any lot wherein the ground floor area of the main structure, exclusive of one-story open porches and garages, will be less than 1,800 square feet for single story homes. Two story homes shall not be less than 2,450 finished square feet above grade, not including sub-levels i.e., basements, etc. Split entries, bi-level splits, tri-levels, and one-story and a half homes, etc. shall be reviewed and defined as to what square footage requirement or requirements would apply to them by the Architectural Control Committee. The exterior material of all homes shall be a minimum of 20 percent brick, stone or other masonry material. The balance of the exterior material shall be wood or acrylic stucco. Facia boards or trim above the soffits shall be a minimum of six (6) inches. Variance of these covenants may be granted only by the Architectural Control Committee.

4. Easements. For installation and maintenance of easements, easements are reserved as shown on the recorded plat. Within these easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of said easements. The easement area of each of the lots and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

5. Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. No clothes line or storage of any articles which are unsightly in the opinion of the Architectural Control Committee will be permitted unless located in enclosed areas built and designed for such purposes. No automobiles, trailers, boats or other vehicles are to be stored on streets or within the front setback required by Salt Lake County.

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

7. Garbage and Refuse Disposal. No lot shall be used as or maintained as a dumping ground for rubbish, trash, garbage or other waste and all such items must be kept in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean sanitary condition. Each lot is to be kept free of trash, weeds (except for natural ground cover on areas having a grade of 30% or greater) and other refuse by the lot owner. No unsightly material is to be stored on any lot in view of the general public.

8. Animals and Pets. Dogs, cats or other household pets may be kept as permissible within current zoning regulations, provided they are not kept, bred, or maintained for any commercial purpose and are restricted to the owner's premises.

9. Landscaping. Trees, lawns, shrubs or other plantings provided by the owner of each respective lot shall be properly nurtured and maintained or replaced at the property owner's expense upon request of the Architectural Control Committee. All landscaping shall begin within 12 months from the date that Salt Lake County issues a final inspection and deems a home located on a lot ready for occupancy and shall be completed within 24 months thereafter.

10. Subdivision of Lots. No owner of any lot within the subdivision shall at any time be permitted to subdivide his lot into two or more sub-lots less in square foot area of the lot at the time of its initial purchase.

PART B
ARCHITECTURAL CONTROL COMMITTEE

1. Membership. The Millcreek Canyon Architectural Control Committee (hereinafter referred to as the "Committee") is comprised of Mark M. Mabey, Michael W. Sansom and Ervin R. Holmes. A majority of the committee may designate a representative to act for it. In the event of death or resignation of a member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee nor their designated representative shall be entitled to any compensation for services to this covenant. The Committee shall appoint a member of the Association, mentioned and outlined below, to act as the President of said Association at the time when the declarant has conveyed all property to other owners and subsequent members. Said President's term shall be for a period of one (1) year, at which time the majority of the members can re-elect the president or nominate another to take his place.

2. Procedure. This Committee's approval or disapproval as required in these covenants shall be in writing. In the event the Committee or its designated representative fails to approve or disapprove within 30 days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction which has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

PART C
OWNERS ASSOCIATION AND MAINTENANCE

1. Formation of Association. By evidence of these COVENANTS, CONDITIONS, AND RESTRICTIONS, each and every owner of the individual lots located within the Millcreek Canyon subdivision shall be a member of the Millcreek Canyon Homeowners Association (hereinafter referred to as the "Association").

2. Membership. Each owner of a lot shall be deemed to be a member of the Association (hereinafter referred to as "Member"). Memberships in the Association shall not be assignable, except to the successor in interest of the lots, and membership in the Association shall be appurtenant to and may not be separated from the fee ownership of the lots. Ownership shall be the sole qualification of membership in the Association. The Association membership held by any owner of a lot shall not be transferred, pledged or alienated in any way, except upon the sale or encumbrance of said lot, and then only to the purchaser(s) of said lot. Any attempt to make a prohibited transfer is void.

3. Voting Rights. The Association shall have one class of voting membership. Members shall have one (1) vote per lot. When more than one persons hold such interest in any lot, all such persons shall be Members. The vote for such lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast for any one lot.

PART D
COMMON AREAS

1. Member's Easements of Enjoyment. Every Member shall have a right and easement of enjoyment in and to the common area, as shown on the recorded plat, and such easement shall be appurtenant to and shall pass with the title to every assessed lot.

2. Waiver of Use. No Member may exempt himself from personal liability for assessments levied by the Association, nor release the lot owned by him from the charges hereof, by waiver of the use and enjoyment of the common area and the facilities thereon or by abandonment of his lot other than by sale thereof.

3. Common Area. Nothing in this Declaration shall be construed to obligate Declarant to designate or provide any part of the properties as common area, other than as shown on the recorded plat.

PART E
COVENANT FOR MAINTENANCE ASSESSMENTS

1. Creation of the Personal Obligation of Assessments. Each Member of any lot within the Association, by acceptance of a real estate contract or deed thereof, covenants and agrees to pay the Association 1/15th of the total assessments for the continued maintenance of the common area. Said assessments shall be distributed monthly, quarterly or annually as the Association designates. Assessment shall be due fifteen (15) days from the date sent. Each assessment, together with any interest, costs and reasonable attorney's fees, shall also be the personal obligation of the owner of such property at the time when the assessment fell due. In any conveyance, except to a mortgagee holding first lien on the subject lot, the grantee of a lot shall be jointly and severally liable to the Association for all unpaid assessments up to the time of conveyance. No membership may be transferred to a subsequent purchaser until all assessments, interest and reasonable attorney's fees have been paid in full to the Association, if applicable.

PART F
DUTIES AND POWERS OF THE ASSOCIATION

1. Duties and Powers. Maintain and manage the common area, including the foot path between the two cul-de-sacs. The common area will be approximately two hundred eight and one-half (208.5) feet long and seven (7) feet wide from the east line of the westerly cul-de-sac to the west line of the easterly cul-de-sac. The maintenance will consist of periodic snow removal, cleaning, and repair as necessary.

PART G
GENERAL PROVISIONS

1. Term. These covenants are to run with the land and should and shall be binding upon all parties and all persons claiming under them for a period of 20 years from the date these covenants are recorded, after which time said covenants shall be automatically extended for a successive period of 10 years unless an instrument signed by the majority of the then owners of the lots have been recorded agreeing to change said covenants in whole or in part.

2. Enforcement. Enforcement shall be by proceedings at law or in equity against every person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

