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MORGAN COUNTY
For: GARDNER COTTONWOOD CREEK L C

WHEN RECORDED, PLEASE MAIL TO:

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**DECLARATION OF PROTECTIVE
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
SILVER MOUNTAIN ESTATES
A PRIVATE COMMUNITY
(THE COTTONWOODS AT MOUNTAIN GREEN)**

THIS DECLARATION is made this 9th day of August, 2006, by **GARDNER COTTONWOOD CREEK, L.C.**, a Utah limited liability company ("Declarant").

RECITALS:

A. Declarant is declarant under that certain Declaration of Protective Covenants, Conditions, Restrictions and Easements for The Cottonwoods at Mountain Green, dated October 12, 2004 and recorded October 12, 2004 as Entry No. 97334 in Book 210 at Page 170 of the Official Records of Morgan County, Utah (the "Master Declaration").

B. On August 18, 2006 Declarant recorded the plat entitled "**Cottonwood Hills, a P.U.D.**" Subdivision in Mountain Green, Morgan County, Utah" as Entry Number 104098, in Book 234, at Pages 357-364 of the Book of Plats of Morgan County, Utah (the "Plat"). The real property described and shown in the Plat and more fully described on "Exhibit A" hereto is a Project, as defined in Section 1.24 of the Master Declaration, to be known as "**Cottonwood Hills**" and is referred to in this Declaration as the "Project Property."

C. The Master Declaration provides that Projects may be created within The Cottonwoods pursuant to the provisions of the Master Declaration, and Declarant desires to designate the Project Property as a Project within The Cottonwoods upon the terms and conditions set forth in this Declaration.

NOW, THEREFORE, the Declarant does hereby declare and provide as follows:

1. **DEFINITIONS.**

As used in this Declaration, the terms set forth below shall have the following meanings:

1.1 "**Project**" means Silver Mountain Estates Neighborhood, within the Cottonwood Hills Subdivision Plat, a Project within The Cottonwoods, consisting of all of the Project Property. (SEE EXHIBIT A)

1.2 "**Project Property**" means all of the property included within the Plat. Additional Property may be annexed to the Project Property in the manner contemplated in the Master Declaration, and any such Additional Property so annexed shall be deemed included within the Project Property from and after the recordation of a plat or supplemental declaration annexing the Additional Property in question. (SEE EXHIBIT B)

1.3 "**Residence**" means a single building designed and constructed for residential occupancy to be occupied as a single-family residence per Morgan County ordinances.

1.4 **"Master Declaration"** means the Declaration of Protective Covenants, Conditions, Restrictions and Easements for the Cottonwoods at Mountain Green, dated October 12, 2004 and recorded October 12, 2004, as Entry No. 97334 in Book 210 at Page 170 of the Official Records of Morgan County, Utah.

1.5 **"Plat"** means that certain plat entitled "Cottonwood Hills a P.U.D". Subdivision in Mountain Green, Morgan County, Utah" and recorded as Entry Number 104098, in Book 234, at Pages 359 - 364 of the Book of Plats of Morgan County, Utah.

1.6 **Incorporation by Reference.** Except as otherwise specifically provided in this Declaration, each of the terms defined in Article 1 of the Master Declaration shall have the meanings set forth in such Article.

2. **PROJECT DESIGNATION.**

The Project Property is hereby designated as a Project and annexed to The Cottonwoods and made subject to the Master Declaration (as the same may be amended from time to time), as set forth herein. The Project Property may be expanded by the annexation of Additional Property pursuant to the terms and conditions set forth in the Master Declaration. Project Property may be withdrawn from the Project in accordance with the Master Declaration.

3. **LAND CLASSIFICATIONS.**

The Project Property, together with any property annexed thereto pursuant to a subsequent Project Declaration or Declaration Annexing Additional Property, shall be a Project Parcel as defined in Section 1.25 of the Master Declaration. All land within the Project Property is included within one or another of the following classifications:

3.1 **Residential Lots.** All platted Lots within the Project Property, but excluding Lots or tracts within the definition of "Common Areas," "Common Easement Areas," "Private Roads," "Limited Common Areas," "Project Common Areas," or "Open Space" on the Plat, shall be Residential Lots as defined in Section 1.28 of the Master Declaration.

3.2 **Project Common Areas.** Open Space Parcel L and M identified on the Plat shall be Project Common Areas as defined in Section 1.24 of the Master Declaration.

3.3 **Common Areas.** Open Space Parcels A,B,D,E,F and J identified on the Plat shall be Common Areas as defined in Section 1.6 of the Master Declaration.

3.4 **Agricultural Area.** Open Space Parcel G, H and N that continues to be farmed will remain agricultural.

4. **MASTER DECLARATION.**

4.1 **Effect of Master Declaration.** The Project Property shall be subject to all of the terms and provisions of the Master Declaration.

4.2 **Incorporation of Master Declaration Provisions for Project.** For purposes of the use, maintenance, and management of the Project by the Owners of Residential Lots within the Project, the Project Association and the Project Architectural Review Committee, the following provisions of the Master Declaration are incorporated into this Declaration and shall be applicable with respect to the Owners, Project Association and the Project Architectural Review Committee as if fully set forth herein for purposes of governing the Project: Article 4 (Property Rights in Common Areas); Article 5 (Property Rights in Lots); Article 6 (General Use Restrictions); Article 9 (Maintenance, Utilities, and Service); Article 10 (Assessments); Article 11 (Enforcement); Article 12 (Mortgagees); and Article 13 (General Provisions).

5. PROJECT MANAGEMENT.

5.1 Project Association. Declarant shall organize an association of all of the Owners within the Project (the "Project Association"). Such Project Association, its successors and assigns, shall be organized under the name "Silver Mountain Estates Owners Association, Inc." or such similar name as Declarant shall designate. The Project Association shall have such rights, powers and obligations as are set forth in Master Declaration with respect to the Association vis-à-vis The Cottonwoods and the Common Areas, except that such rights, powers, and obligations as applied to the Project Association shall be limited to the Project Property and all Owners of Lots located therein. The foregoing powers of the Project Association shall include the power to charge Assessments to Owners of Lots in the Project, on the same basis and pursuant to the same procedures as are set forth in the Master Declaration for the Master Association, for costs incurred by the Project Association in connection with the Project. Accordingly, Owners of Lots within the Project may be subject to a separate assessment from each of the Project Association and the Master Association. The provisions of Article 8 of the Master Declaration, providing for the organization and operation of the Association are hereby incorporated herein and made applicable to the Project Association to be organized and to operate under this Declaration, except as set forth in the following sentence. Effective as of the turnover meeting described in Section 8.7 of the Master Declaration (incorporated in this Declaration for purposes of the operation of the Project), the Management Committee of the Project Association will be elected by the Owners of Lots in the Project in compliance with the Articles of Incorporation and Bylaws of the Project Association. After the organization of the Project Association, there shall be no Project Committee for the Project as provided in the Master Declaration.

5.2 Particular Project Association Maintenance Obligations. The storm water retention areas will be maintained as part of the regular scheduled maintenance performed by the Project Association. Maintenance of the storm water retention areas must include the maintenance of: (1) full volume capacities of storm drain pond(s), through excavation if necessary; (2) the storm drain pond sump and excavation of silts, fine soils and rocks as needed; (3) outlet works so that they remain open and free from all obstructions, including ice; and (4) vegetation within the storm drain pond(s) and the harvesting of vegetation (including mowing grasses) as appropriate, and hauling harvested vegetation from the area and appropriately disposing of it. If the Morgan County Engineer deems such testing necessary, the water quality will be tested periodically as instructed by the said Engineer and the results shall be provided to the Engineer, which results shall be deemed public information. The Project Association shall comply with all reasonable requests of the Morgan County Engineer pertaining to mitigation measures that maintain appropriate water quality discharged from the Project. Notwithstanding the foregoing, the said testing will not be more or less restrictive than typical Morgan County storm drainage requirements. Notwithstanding anything in this declaration to the contrary, the provisions of this Section 5.2 shall not be amended without the prior written consent of the Morgan County zoning administrator. Declarant shall guaranty the performance of the Project Association's maintenance obligations for a period of two (2) years from and after the recording of this Declaration.

5.3 Project Architectural Review Committee. In order to protect the quality and values of the homes built on the Property, the Declarant shall organize an Architectural Review Committee for the Project ("Project Architectural Review Committee"). The provisions of Article 7 of the Master Declaration, providing for the organization and operation of the Architectural Review Committee are hereby incorporated herein and made applicable to the Project Architectural Review Committee to be organized and to operate under this Declaration, but only with respect to the Project. All submissions required pursuant to Article 7 of the Master Declaration pertaining to property and Improvements located within the Project, except for Common Areas, shall be submitted to, evaluated and decided by the Project Architectural Review Committee, as opposed to the Architectural Review Committee. The Project Architectural Review Committee shall have all powers, authorities and rights as the Architectural Review Committee with respect to matters within the scope of the Project Architectural Review Committee's power of review as set forth in this Section 5.3. The duties and scope of the Project Architectural Review Committee is to ensure that no dwelling, outbuildings, or improvements shall be commenced, erected or altered on any lot, and no modification shall be made to any home until the Project Architectural Review Committee has given written approval to the Owner, following compliance with Article 7 of the Master Declaration.

5.4 Project Architectural Review Committee Fees. In accordance with the conditions in Section 7.1 of the Master Declaration, the Lot Owner shall deposit the sum of One Thousand Five Hundred Dollars

(\$1,500.00) with the Project Architectural Review Committee, Three Hundred Dollars (\$300.00) of which shall constitute a non-refundable fee. \$700.00 of the fee will be designated for compliance the architectural terms set forth in Section 6 in this Declaration of Covenants, Conditions and Restrictions. \$500.00 of the fee will be designated for compliance with the landscaping criteria. The deposit is for the purpose of insuring that the Owner: (1) fulfills his responsibility to keep his Lot in a condition so as to prevent the rubbish and debris which accumulates during the construction and/or landscaping process from blowing or collecting on neighboring Lots and streets in the Project; (2) reasonably cleans up such Owner's Lot at or near the completion of the construction process, and (3) complies in all respects with the terms and conditions of this Declaration of Covenants, Conditions and Restrictions. If the Lot Owner fails in any of these responsibilities \$1,200.00 of the deposit may be retained by the Project Architectural Review Committee as security for the performance of the Owner's obligation hereunder or as liquidated damages. Additionally, if any such failure is not remedied by Owner within fourteen (14) days after written notice thereof, the Project Architectural Review Committee may remedy such condition itself and in connection therewith, it may have reasonable access to the Lot and shall charge the Owner for the cost of the remedy, in which event the provisions of Article 11 of the Master Declaration shall be applicable. Upon the completion of the construction of residence and the landscaping of the Lot in a satisfactory manner, the portion of the Deposit remaining after remedial work, if any, shall be returned to the Owner by the Project Architectural Review Committee upon written request by the Owner.

5.5. Submittal to Project Architectural Committee. Prior to applying for a Building Permit, Morgan County requires a full-size set of plans stamped with approval from the Project Architectural Review Committee. Submittal shall consist of the following:

- a. Two full-size sets and one half-size set of architectural plans
- b. Two full-size and one half-size copy of the Site Plan with placement on the Lot.
- c. Color samples of exterior façade, including brick and stone
- d. One full-size and one half size landscape drawing

The full-size drawings will be returned to the applicant for submittal to the County. The County will require stamped drawings approved by the Architectural Committee before submitting for a building permit. The half-size and samples will be retained by the Project Architectural Review Committee.

6. ADDITIONAL RESTRICTIONS.

In addition to the requirements set forth in the Master Declaration, the Project Property shall be subject to the following additional restrictions:

6.1 Prohibition Against Further Subdivision. No Lot may be further subdivided or otherwise separated into smaller parcels.

6.2 Minimum Square Footages—Garage Orientation. No single story Residence shall be constructed, altered, placed or permitted to remain on any Lot unless the main floor area, exclusive of basement, open porches and garages, is 2,300 square feet or greater. No multi-story Residence shall be constructed, altered, placed or permitted to remain on any Lot unless the main floor, exclusive of basements, open porches and garages, is a total of 2,000 square feet or greater and the upper level, exclusive of open porches, is a total of 500 square feet or greater. Garages shall be enclosed, large enough for at least three (3) cars and situated so as to utilize a side facing entrance unless otherwise approved by the Project Architectural Review Committee.

6.3 Setbacks. No improvements shall be located on a Lot closer to the respective Lot line than as follows: twenty (20) feet from the front Lot line for the garage and fifteen (15) feet from the balance of the Improvement, unless a side facing garage entry is utilized, in which case the fifteen (15) foot standard shall apply; ten (10) feet from each side Lot line, unless the Lot is a corner Lot, in which case the twenty (20) foot front yard standard shall apply to the applicable side yard; and twenty (20) feet from the rear Lot line. The Project Architectural Review Committee, and Morgan County Board of Appeals may take into account unique aspects of a particular Lot and grant variances to the foregoing standards; provided, however, that no such variance shall be granted in contravention of applicable Morgan County zoning ordinances and any purported variance in violation of

such ordinances shall be deemed void to the extent it is inconsistent with such zoning ordinances. A Full size (1'-20') site plan shall be submitted to the Project Architectural Review Committee for review prior to any improvements being made on the Lot.

6.4 **Height.** No improvements shall be located on Residential Lots with a height in excess of thirty-five (35) feet, measured from the lowest finished grade of the Home to the ridgeline, excluding chimneys. The height restriction for sensitive upslope or down slope is thirty (30) feet and two-stories, measured from the lowest finished grade of the Home to the ridgeline, excluding chimneys. Declarant reserves the right to modify the grade of any Lot prior to commencement of construction of Improvements in an amount not to exceed four (4) feet related to measuring height of structure as per approved building or grading permit.

6.5 **Architectural Style and Compatibility of Improvements.** The exterior of all Residences must be constructed of brick, stucco, James Hardie® siding or equivalent, and/or stone. Log homes and log veneer siding are prohibited. Every Residence shall have a minimum of 85% brick or stone on the front façade and 50% brick or stone on each the remaining façades. Stone and/or Brick needs to wrap the corners a min. 48". Street facing side and back facades shall have the minimums set forth above for front facades. Aluminum soffits and fascia trim are allowed, provided, however, that a minimum width of 10 inches shall be required on the fascia. No aluminum exterior siding is permitted in the Project. Roof surfaces shall slope a minimum of 6:12 pitch and shall be 25-year asphalt architectural shingles, tile or slate shingles unless specific written approval of the Project Architectural Review Committee is received for the use of other roofing materials. Flat roofs, A-frame, geodesic dome and other irregular roof forms are prohibited. Colors of exterior materials shall be earth tones and grays while allowing accents of white, beige, rust, black or green. Care should be given that each Residence complements those around it, and not detract in design, quality or appearance. All exterior materials and colors must be approved in writing by the Project Architectural Review Committee. All final decisions with respect to these enumerated standards and their application to a particular proposed structure in the Project shall be made by the Project Architectural Review Committee. All exposed metal flues, vents, ventilators, or other metallic rooftop protrusions shall be positioned on the back slope of the roof and shall be coated, painted or shielded with tones which complement surrounding structures.

6.5.1 **Architectural Guidelines.** The following architectural guidelines shall apply to all homes, especially lots which have been deemed sensitive or highly visible from major roads and/or other properties. All Dwellings constructed shall be required to incorporate a minimum of one of the structural elements and one of the architectural elements into the design of the rear elevation of the home as follows:

- a. **Structural Elements**
 - i. Hip Roof
 - ii. Roof dormers on rear of the roof
 - iii. Addition of bay window or other popped out element
 - iv. Offset second floor
 - v. First floor roof break
 - vi. Second floor deck element

- b. **Architectural Elements**
 - i. Stucco trim detail around all windows and doors
 - ii. Window pane detail, i.e. added grid pattern to the window glass
 - iii. Shutters installed on all second floor windows
 - iv. Material or color break between the first and second floors. Material breaks could include stucco trim details, brick and/or stone details, or other options approved by the Committee.

6.6 **Maintenance Responsibility.** The Project Association shall have the responsibility to maintain the Project Common Areas, including the Improvements thereon, in a clean and attractive condition, in good repair. In addition, the Project Association and respective Owners, as applicable, shall keep all shrubs, trees, grass, and plantings of every kind in manicured areas of the Project Common Areas and on the Lots neatly trimmed, properly cultivated and free of trash, weeds, and other unsightly material.

6.7 **Maintenance Responsibility of Improvements.** The Owner of each Lot shall have the responsibility to maintain the Improvements on the Lots, in a clean and attractive condition, in good repair and in such fashion as not to create a fire hazard. Such maintenance shall include, without limitation, painting, repair, replacement and care for roofs, gutters, downspout, exterior building surfaces, walks and other exterior improvements and glass surfaces. Damage caused by fire, flood, storm, earthquake, riot, vandalism, or other causes shall likewise be the responsibility of the Owner and shall be restored within a reasonable period of time. Vacant lots shall be clean in appearance and free from refuse, debris, unsightly weeds and potential fire hazards. If construction is not going to commence within the allocated time period, the Declarant recommends that "No Dumping" signs be posted on the Lot. Furthermore, the Declarant reserves the right, during the period of Declarant Control, to place such signs in the event the Owner fails to do so. The Association will notify Lot Owners if Lot cleaning or maintenance is required. If Lot Owners have not remedied the problem within fourteen (14) days of notification, the Association may perform said maintenance and may assess the Lot Owner for all associated costs.

6.8 **Animals.** No wild or dangerous animals, horses, cows, pigs, sheep, fowl, livestock or animals, other than ordinary household pets that do not constitute a nuisance, shall be allowed within the Project Property. Dogs and cats or other household pets belonging to Owners, occupants or their licensees or invitees within the Project Property must be kept within an enclosure. The enclosure must be maintained such that the animal cannot escape therefrom. Chain link fencing may not be used to confine animals unless it is completely concealed from view during all seasons of the year. Invisible fencing may be used where appropriate. Any such contained enclosure areas must be cleaned on a regular basis to minimize odors and maintain a clean appearance. Without exception, all dogs shall be restrained on a leash when off the Owner's Lot. Animal owners are responsible to immediately pick up all animal droppings that are deposited on the property outside of their own Lot. In no case may any household pet or other animal be kept at or around the Residence be allowed to create a nuisance for neighboring Lot owners due to noise, odors or otherwise. Any other term or condition hereof to the contrary notwithstanding, an Owner may not keep or maintain more than two (2) dogs and two (2) cats older than six (6) months, on a Lot at any time.

6.9 **Fences.** Black Steel or aluminum, Tan vinyl, dark colored coated chain link, wood or trek fencing is acceptable. Vinyl or aluminum slats in chain-link fencing are prohibited. No fences or non-living screens shall be constructed on any Lot without prior written approval having been obtained from the Project Architectural Review Committee. Fences will not be allowed on slopes 15% or greater. The Project Architectural Review Committee, in its sole discretion, may govern the placement of any fence upon any Lot in the Project. No hedges, shrubs or other living Landscaping or screen of any kind shall be erected so as to constitute a hazard for vehicular traffic, pedestrians, children, etc., particularly near the entrances to driveway(s) onto a Lot. No fence shall be permitted to be constructed or installed on any portion of a common area berm constructed by the developer in the project such that it exceeds the height of the fence installed by the developer as part of the landscape easement without permission. All fences shall be a minimum of 10 feet from the common area berm. Any solid hedge within twenty (20) feet of the front lot line shall be trimmed to a maximum height of three (3) feet. Backyard fences are allowed in the Project, but shall not exceed six (6) feet in height or extend further along the side yard Lot line, or otherwise, toward the front of the Lot beyond the front yard setback. If fencing around the perimeter of the Project is provided by the Declarant, then all other backyard fencing is encouraged to match the perimeter fencing or to be coordinated with neighboring property fences in an effort to provide consistency. All retaining walls must be approved in writing by the Project Architectural Review Committee. If retaining walls exceed four feet in height, the retaining wall design must be engineered and the design thereof must be certified as structurally sound by a civil or structural engineer. All fencing, walls, hedges, etc. shall be maintained in a first-class and attractive manner. An Owner removing or replacing any fence, wall or other Landscaping affecting an adjoining Owner's Lot shall, at all times, install and maintain bracing to maintain such adjoining Owner's fencing or other Improvements that may be adversely affected.

6.10 **Landscaping** The developer will be landscaping the common areas such as parks, the pedestrian parkway, streetscapes, trail systems, the project entry and the project entry road. Landscaping will include turf, native grasses, trees, shrubs and other miscellaneous landscape materials, as well as accompanying irrigation systems. Landscape plans for the common facilities proposed by each phase will be prepared under the direction of a licensed landscape architect, and available for County review. The common facilities will be maintained by the County, the Master Owners Association or the Neighborhood Owners Association, depending upon who retains ownership and maintenance based upon the Overlay Plat.

Additional Landscaping will be planted in the following areas:

- Revegetation of the creekside parkway along the entry road
- Revegetation of all disturbed areas to be left as open space
- Revegetation of all other native open space areas not being farmed with a native grass and/or flower mix to enhance the appearance of the community in the Spring and early Summer
- The planting of trees along all asphalt and open space trails in varied clusters; the trees planted will be native species that are low water useage and can sustain themselves based on the natural rain cycle. Irrigation watering will occur initially until the tree becomes established.

Homeowners will be encouraged to plant low water usage landscaping. Within ninety days of occupancy, homeowners will be required to fully landscape front yards and any street side yards with turf, trees, shrubs and other miscellaneous landscape materials, including an automatic irrigation system.

Street trees shall be planted at one tree per thirty lineal feet of frontage. This number may be altered if circumstances such as visibility, sightlines, driveway installation, utility locations or adjacent property tree placements affect the overall tree spacing layout.

As the development progresses, landscape plans will be prepared for each neighborhood that addresses that areas landscape design scheme – the balance between traditional landscaping – turf and ornamentals – and contemporary landscaping – native species and low water usage plants. Each of the plans will be prepared by a licensed landscape architect and reviewed by the County prior to the initiation of construction.

The following list provides a guideline of trees that the homeowners will be permitted to plant, however, these lists may be expanded as additional tree varieties become available:

Street Trees

(Requirement: 1 tree per 30 lineal feet of frontage (3 total required), minimum 1 ½" caliper)

Potential Trees:

Acer x. freemanii 'Jeffersred' (Autumn Blaze Maple)
Acer glabrum 'Rocky Mountain Glow' (Rocky Mountain Glow Maple)
Acer platanoides 'Columnnar' (Columnnar Norway Maple)
Celtis occidentalis (Common Hackberry)
Crataegus lavalley 'Carriere' (Carriere Hawthorn)
Crataegus phaenopyrum 'Washington' (Washington Hawthorn)
Fraxinus americana 'Autumn Purple' (Autumn Purple Ash)
Fraxinus pennsylvanica lanceolata 'Cimmeron' (Cimmeron Green Ash)
Fraxinus pennsylvanica lanceolata 'Patmore' (Patmore Green Ash)
Malus 'Bechtel' (Bechtel Flowering Crabapple)
Malus 'Spring Snow' (Spring Snow Crabapple)
Populus alba (Silverleaf Poplar)
Populus alba 'Pyramidalis' (Bolleana Poplar)
Prunus padus (Mayday Tree)
Prunus padus 'Merlot' (Merlot Mayday Tree)
Prunus virginiana 'Canada Red' (Canada Red Chokecherry)
Quercus macrocarpa (Bur Oak)
Sorbus aucuparia (European Mountain Ash)
Tilia americana 'Redmon' (Redmond American Linden)
Tilia tomentosa 'Sterline Silver' (Sterling Silver Linden)

Front Yard

(Requirement: 1 tree, minimum 2" caliper/deciduous, 5'-6' height/evergreen)

Acceptable Trees:

Amur Maple (Acer ginnala)
Autumn Blaze Maple (Acer x. freemanii 'Jeffersred')
Colorado Spruce (Picea pungens)
European Mountain Ash (Sorbus aucuparia)
Patmore Green Ash (Fraxinus pennsylvanica l. 'Patmore')
Redmond Linden (Tilia americana 'Redmond')
Western Red Birch (Betula occidentalis fontinalis)
White Fir (Abies concolor)

Back Yard

(Requirement: 1 flowering tree, minimum 1 1/2" caliper)

Acceptable Trees:

Bechtel Crab (Malus ioensis)
Canadian Red Chokecherry (Prunus virginiana 'Canada Red')
Flowering Crab/Varieties (Malus Sp.)
Flowering Pear/Varieties (Pyrus calleryana)
Mayday Tree (Prunus padus)
Radiant Crab Apple (Malus 'Radiant')
Spring Snow Crab Apple (Malus 'Spring Snow')
Summer Glow Mayday Tree (Prunus padus 'Summer Glow')

In recent years, the objectives of landscaping have changed significantly. Today, landscaping must use less water and require less maintenance. Native species are an integral part of a landscape scheme. Therefore, the landscaping proposed for the Cottonwoods at Mountain Green must embrace each of these requirements.

6.10.1 **Landscaping Timeframe.** If a Certificate of Occupancy is issued between September 1 and March 31, all front and side yard landscaping must be completed no later than the following July 1. If the Certificate of Occupancy is issued between April 1 and August 31, all front and side yard landscaping must be completed within ninety (90) days of issuance of the Certificate of Occupancy. Minimum landscaping is grass and sprinklers. In the event the Owner has not installed the landscaping as required by this section within the specified timeframes, the deposit required pursuant to Section 5.4 shall be forfeited by the Owner to the Association and the Association may, in addition to any other remedies the Association may have, fine the Owner \$200 per month until the required landscaping has been installed.

6.10.2 **Irrigation.** Secondary irrigation water shall be provided to each Lot in a specified amount for size of lot depending upon the square footage, topography and location. The amount of irrigation water provided to each Lot is based upon a normal water year and regional availability and is not guaranteed. The irrigation water company providing the secondary water shall have the right to restrict, reduce, regulate or curtail the amount and timing of delivered secondary water. In order to manage limited water resources the irrigation company may choose to specify days, times and amounts of water to be used by Lot Owner(s). Water conservation and natural vegetation will be encouraged. Water use on lots that are one acre or greater with slopes greater than 15% will require a specific plan showing the watering plan and maintenance of hillsides to be submitted and approved from the Architectural review committee.

6.11 **Motorcycles, ATV's Travel Trailers and RVs.** All motorcycles, trail bikes, three-wheel, four-wheel and other ATV's, automobiles, and other two or four-wheel drive recreational-type vehicles are to be operated only on driveways and Streets within the Project, but only to the extent permitted by applicable Morgan County ordinances and Utah State law. The use of such vehicles and snowmobiles on unoccupied Lots or other open areas of the Project Property is expressly prohibited. Storage and Parking of said vehicles are governed by the rules in section 6.6 of the Master Declaration. Temporary parking of RV's or travel trailers is permitted for loading and unloading purposes, not to exceed three (3) days.

6.12 **Zoning Regulations.** No Lot may be occupied in a manner that is in violation of any applicable statute, law, or ordinance, rule or regulation.

6.13 **No Mining Uses.** The property within the Project shall be used for residential purposes only, and no mining, drilling, prospecting, mineral exploration or quarrying activity will be permitted at any time.

6.14 **Restrictions on Signs.** No signs will be permitted on any Lot or within the Project, except for traffic control signs placed by the County or temporary signs warning of some immediate danger. Signs indicating the Lot is for sale may be placed in accordance with County sign regulations, and no such sign may exceed three feet square. The Declarant may erect signs within the Subdivision in accordance with County sign regulations during the marketing of the Subdivision announcing the availability of homes or Lots and giving sales information.

6.15 **Additional Improvements.** No Additional Improvements shall be constructed on any Lot unless such Additional Improvement conforms with all applicable building requirements and other requirements of Morgan County.

6.16 **No Used or Temporary Structures.** No previously erected, used, or temporary structure, mobile home, trailer house, or any other non-permanent structure may be installed or maintained on the Lot.

6.17 **Completion Required Before Occupancy.** No Dwelling may be occupied prior to its completion and the issuance of a certificate of occupancy by Morgan County.

6.18 **Outbuildings.** No Additional improvements within the Project, including but not limited to garages, storage units, or other out buildings, may be made to any Lot without the prior approval of the Project Architectural Review Committee. The building materials must be harmonious with the dwelling and the roof materials must be the same as the roof materials on the dwelling. The location of outbuildings must not detract from the dwelling. The viewing of the primary dwelling should always be the focus. The Project Architectural Review Committee will approve the height and size of each outbuilding based on its location and proportion to the primary dwelling.

6.19 **Underground Utilities.** All new gas, electrical, telephone, television, and any other new utility lines installed by the Declarant or its assigns in the Subdivision are to be underground, including lines within any Lot which service installations entirely within the Lot. No propane tanks or oil tanks may be installed on any Lot except for temporary heat during construction.

6.20 **Service Yards.** There shall be no clothes lines, service yards, or storage yards. Exterior mechanical equipment must be screened in a manner so that is not visible from adjoining Lots.

6.21 **Maintenance of Property.** All Lots and the Improvements on them shall be maintained in a clean, sanitary, attractive and marketable condition at all times. No Owner shall permit his Lot or the Improvements on it to fall into disrepair.

6.22 **No Noxious or Offensive Activity.** No noxious or offensive activity shall be carried out on any Lot, including the creation of loud or offensive noises or odors that detract from the reasonable enjoyment of nearby Lots.

6.23 **No Hazardous Activity.** No activity may be conducted on any Lot that is, or would be considered by a reasonable person to be unreasonably dangerous or hazardous, or which would cause the cancellation of a conventional homeowner's insurance policy. This includes, without limitation, the storage of caustic, toxic, flammable, explosive or hazardous material in excess of those reasonable and customary for household uses, the discharge of firearms or fireworks, and setting open fires (other than properly supervised and contained barbecues).

6.24 **No Unsightliness.** No unsightliness is permitted on any Lot. This shall include, without limitation, the open storage of any building materials (except during the construction of any Dwelling unit or

addition); open storage or parking of farm or construction equipment, boats, campers, camper shells, trailers, trucks larger than pick-up trucks (except during periods of actual loading and unloading) or inoperable motor vehicles; accumulations of lawn or tree clippings or trimmings; accumulations of construction debris or waste; household refuse or garbage except as stored in tight container in an enclosure such as a garage; and the storage or accumulation of any other material, vehicle, or equipment on the Lot in a manner that is visible from any other Lot or any public street.

6.25 **No Annoying Lights.** No outdoor lighting shall be permitted except for lighting that is designed to direct the light downward and limit the field of light confined to the Lot on which it is installed. All lighting shall be in compliance with the Night Sky Lighting Requirements of Morgan County.

6.26 **No Annoying Sounds.** No speakers or other noise making devices may be used or maintained on any Lot which create noise that might reasonably be expected to be unreasonably or annoyingly loud from adjacent Lots, except for security or fire alarms.

6.27 **Sewer Connection Required.** All Lots are served by sanitary sewer service, and no cesspools, septic tanks, or other types of waste disposal systems are permitted on any Lot. All Dwelling units must be connected to the sanitary sewer system.

6.28 **No Fuel Storage.** No fuel, oil, gasoline, propane, or other fuel storage tanks may be installed or maintained on the property. Dwellings shall be heated with natural gas, solar or electric heat. Propane or other such containerized fuels may be used only during construction of the Dwelling until the permanent heating system is installed and operational. Notwithstanding the foregoing, propane tanks for outdoor barbecues shall be permitted.

6.29 **Natural Contours and Grading and Drainage.** The natural contours of any Lot shall not be modified in excess of four (4) vertical feet without prior written approval from the Project Architectural Review Committee. In any location where cuts exceed a three to one (3H/1V) slope, Lot Owners are responsible to do one of the following until the disturbed neighborhood area is properly re-vegetated: (1) use silt fencing; or (2) use an erosion blanket; or (3) as approved by the Project Architectural Review Committee construct a decorative wall or natural rock wall. All disturbed areas must be covered with natural soil and planted with grasses or other appropriate plant material. Owners must retain or mitigate cuts or fills that impact any adjacent Lots. Each Owner is responsible to grade his Lot to required specifications and shall not hold the Declarant responsible for any drainage on or off the Lot. Each Lot Owner will be responsible to minimize surface water runoff within his own Lot boundary.

6.30 **Vehicles Restricted to Roadways.** No motor vehicle will be operated on the Subdivision except on improved roads and driveways.

6.31 **No Transient Lodging Uses.** The Lots are to be used for residential housing purposes only, and shall not be rented in whole or in part for transient lodging purposes, boarding house, "bed and breakfast", or other uses for providing accommodations to travelers. No lease of any Dwelling on a Lot shall be for a period of less than 30 days. No Dwelling on a Lot shall be subjected to time interval ownership.

6.32 **Antennas.** All antenna must be enclosed within a building and not roof mounted, with the exception of not more than two (2) satellite dishes shall be permitted; the dishes shall be twenty-four inches (24") or less in diameter. No ham radio receiver or transmitter antenna or other similar device shall be attached to or installed on the exterior portion of any Dwelling or Improvement or placed on any Lot within the Property.

6.33 **Deviations.** Deviations from the standards set forth in this Declaration may be allowed only upon written approval by the Project Architectural Review Committee for good cause shown.

6.34 **Fireplaces.** In order to reduce air pollution generated by fireplace emissions, the following restrictions will apply on all phases of the Cottonwoods at Mountain Green:

- a. **Wood Stoves must be EPA certified.** Older, uncertified fireplaces release 40 to 60 grams

of smoke per hour. New EPA-certified fireplaces produce only 2 to 5 grams of smoker per hour.

- b. Gas Stoves. No restrictions on gas stoves as they emit very little pollution and require little maintenance.
- c. Pellet Stoves. No restrictions on pellet stoves as they burn a renewable fuel made of ground, dried wood and other biomass wastes and are some of the cleanest burning heating appliances available. They do not require EPA certification.
- d. Fireplace Inserts must be EPA certified. Fireplace inserts fit within existing fireboxes and can burn wood, pellets or gas.
- e. Decorative Gas Logs. No restrictions on decorative gas logs as they emit little pollution as they typically burn either natural gas or propane.

6.35 Mailboxes / Paper Box. Where allowed by the Postmaster, each Lot must have a permanent stone or brick mailbox structure that harmonizes with the style of the home. Mailboxes should be of sufficient size to accommodate large parcels and several days' mail. Optional newspaper holders may be included within the mailbox structure. The Project Architectural Review Committee must approve all mailboxes and may, by rule, establish pre-approved mailboxes.


7. **BINDING EFFECT.**

The Project Property, including all Common Areas, Project Common Areas, and Lots therein, shall be held, conveyed, hypothecated, encumbered, used, occupied, and improved only in accordance with the provisions of the Master Declaration, as modified by this Declaration, which easements, covenants, restrictions, and charges shall run with the Project Property and shall be binding upon all parties having or acquiring any right, title or interest in the Project Property or any part thereof and shall inure to the benefit of each Owner thereof.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day and year first set forth above.

Declarant:

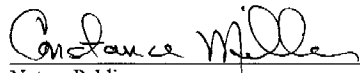
GARDNER COTTONWOOD CREEK, L.C.
a Utah limited liability company

By 
Rulon C. Gardner, Manager

STATE OF UTAH)
) ss:
COUNTY OF SALT LAKE)

The foregoing Declaration of Covenants, Conditions and Restrictions for The Silver Mountain Estates Neighborhood, was acknowledged before me this 9th of August, 2006, by Rulon C. Gardner, who duly acknowledged to me that he executed the same as a Manager of Gardner Cottonwood Creek, L.C., a Utah limited liability company.

My Commission Expires:
9-22-2007


Notary Public
Residing at Salt Lake County

**DECLARATION OF PROTECTIVE
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
Silver Mountain Estates**

Exhibit A

(Legal Description of the Project Property)

All that certain real property located in Morgan County, Utah, located within that certain plat entitled "The Cottonwood Hills, a P.U.D. Subdivision in Mountain Green, Morgan County, Utah" filed in the plat records of Morgan County, Utah, including Lots 1 through 20, and Open Space Parcels A through N.

**DECLARATION OF PROTECTIVE
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
Silver Mountain Estates**

Exhibit B

[SEE ATTACHED]

BOUNDARY DESCRIPTION

A parcel of land located in Sections 19, 20, 29 & 30, Township 5 North, Range 2 East, Salt Lake Base and Meridian, being more particularly described as follows:

Beginning at a point on the Center Section line of Section 30, Township 5 North, Range 2 East, Salt Lake Base and Meridian, (Basis of bearing being South 88°42'14" East 1342.03 feet between the Center of Section and the CE 1/16 corner of said Section 30) said point also being the Southeast corner of Fox Hollow P.R.U.D. Phase 1 as recorded in the Morgan County Recorder's Office, and running thence along said P.R.U.D. the following (16) calls: 1) North 00°42'36" West 335.14 feet; 2) North 76°23'45" East 32.94 feet; 3) North 03°35'20" East 116.35 feet; 4) North 00°57'41" West 470.92 feet; 5) North 03°06'28" West 450.19 feet; 6) North 03°10'42" West 248.07 feet; 7) North 04°55'12" West 217.84 feet; 8) South 85°04'48" West 42.16 feet; 9) North 40°53'26" West 290.14 feet; 10) North 32°23'57" West 139.58 feet; 11) North 08°06'21" West 485.48 feet; 12) South 89°29'51" West 20.18 feet; 13) North 08°06'21" West 245.91 feet to a point on a 230.00 foot radius curve to the left 14) thence 491.23 feet Northerly and Westerly along the arc of said curve through a central angle of 122°22'16" (chord bears North 69°17'29" West 403.05 feet); 15) thence South 49°31'23" West 38.55 feet to a point on a 347.42 foot radius curve to the left; 16) thence 15.56 feet Southwesterly along the arc of said curve through a central angle of 2°33'59" (chord bears South 48°14'24" West 15.56 feet); thence leaving said P.R.U.D. North 46°53'30" East 1931.06 feet; thence North 55°19'30" East 496.88 feet; thence North 41°11'53" East 156.35 feet; thence South 66°18'07" East 387.50 feet; thence South 04°02'18" East 632.48 feet; thence South 361.03 feet; thence South 00°33'30" West 407.64 feet; thence South 10°19'19" East 235.71 feet; thence South 16°03'41" West 319.64 feet; thence South 04°53'54" West 235.09 feet; thence South 381.18 feet; thence West 223.25 feet; thence North 69°37'26" West 203.88 feet; thence South 00°59'19" East 210.91 feet; thence South 17°13'59" East 85.84 feet; thence South 52°46'06" West 125.59 feet to a point on a 272.50 foot non-tangent curve to the left; thence 84.80 feet along the arc of said curve through a central angle of 17°49'46" (chord bears South 46°08'47" East 84.46 feet); thence South 55°03'40" East 268.61 feet; to a point on a 15.00 foot radius curve to the left; thence 22.49 feet along the arc of said curve through a central angle of 85°53'12" (chord bears North 81°59'44" East 20.44 feet) to a point on a 577.50 foot radius curve to the right; thence 6.97 feet along the arc of said curve through a central angle of 00°41'28" (chord bears North 39°23'52" East 6.97 feet); thence South 50°15'24" East 55.00 feet to a point on a 15.00 foot radius non-tangent curve to the left; thence 24.89 feet along the arc of said curve through a central angle of 95°05'16" (chord bears South 07°48'02" East 22.13 feet) to a point on a 472.50 foot radius curve to the left; thence 10.79 feet along the arc of said curve through a central angle of 01°18'30" (chord bears South 55°59'55" East 10.79 feet); thence North 41°01'36" East 131.08 feet; thence South 60°07'27" East 179.03 feet; thence South 52°49'07" East 109.09 feet; thence South 45°35'30" East 108.14 feet; thence South 38°24'43" East 107.69 feet; thence South 31°14'45" East 107.78 feet; thence South 24°51'40" East 288.98 feet; thence South 60°36'17" West 108.37 feet; thence South 23°56'03" East 13.52 feet to a point on a 15.00 foot radius curve to the left; thence 24.23 feet along the arc of said curve through a central angle of 92°32'38" (chord bears South 70°12'22" East 21.68 feet); thence South 26°28'42" East 55.00 feet to a point on a 1027.50 foot non-tangent radius curve to the right; thence 344.68 feet along the arc of said curve through a central angle of 19°13'53" (chord bears South 73°08'15" West 343.26 feet); thence South 82°45'11" West 85.54 feet; thence South 07°14'49" East 86.93 feet; thence South 53°30'20" West 648.34 feet; thence South 12°40'10" West 136.32 feet to a point on a 333.00 foot radius curve to the right; thence 333.51 feet along the arc of said curve through a central angle of 57°23'02" (chord bears South 41°21'41" West 319.75 feet); thence South 70°03'12" West 112.82 feet to a point on a 533.00 foot radius curve to the right; thence 246.75 feet along the arc of said curve through a central angle of 26°31'28" (chord bears South 83°18'56" West 244.55 feet); thence North 83°25'20" West 102.03 feet to a point on a 267.00 foot radius curve to the left; thence 178.92 feet along the arc of said curve through a central angle of 38°23'40" (chord bears South 77°22'49" West 175.59 feet); thence South 58°10'59" West 105.60 feet to a point on a 333.00 foot radius curve to the right; thence 155.35 feet along the arc of said curve through a central angle of 26°43'45" (chord bears South 71°32'51" West 153.94 feet); thence South 84°54'44" West 223.99 feet to a point on a 333.00 foot radius curve to the right; thence 225.32 feet along the arc of said curve through a central angle of 38°45'04" (chord bears North 75°42'14" West 221.04 feet); thence North 56°19'13" West 55.54 feet; thence South 68°53'02" West 148.02 feet to a point on the Northeastly border of the Wilkinson Reservoir; thence along said border the following (17) calls: 1) North 29°55'13" West 113.19 feet; 2) North 70°04'13" West 86.92 feet; 3) South 64°18'47" West 116.19 feet; 4) South 56°08'47" West 136.69 feet; 5) South 40°08'47" West 174.31 feet; 6) South 18°26'47" West 145.07 feet; 7) South 22°19'47" West 68.19 feet; 8) South 34°18'47" West 94.58 feet; 9) South 28°18'47" West 76.94 feet; 10) South 22°06'47" West 87.47 feet; 11) South 02°00'47" West 65.66 feet; 12) South 18°51'47" West 100.69 feet; 13) South 06°40'13" East 108.57 feet; 14) South 00°12'47" West 132.88 feet; 15) South 00°02'13" East 188.94 feet; 16) South 07°00'47" West 202.09 feet; 17) South 39°01'47" West 101.84 feet; thence South 61°55'15" West 383.09 feet; thence South 60°32'47" West 90.46 feet to the Southeastly corner of the Cottonwoods at Rose Hill Phase 1 P.R.U.D. Subdivision; thence along said subdivision the following (7) calls: 1) North 02°32'09" East 713.67 feet; 2) North 42°00'44" East 599.14 feet; 3) North 27°19'53" West 128.18 feet; 4) North 62°40'07" East 67.13 feet to a point on a 300.00 foot radius curve to the left; 5) thence 229.34 feet along the arc of said curve through a central angle of 43°48'03" (chord bears North 40°46'06" East 223.80 feet); 6) North 18°52'04" East 17.71 feet; 7) North 581.05 feet to a point on said Center of Section line of Section 30 and the South Property line of said Fox Hollow P.R.U.D.; thence along said Section line and said Property line South 88°42'14" East 1395.00 feet to the point of beginning.

Contains 8,031,506 square feet, or 184.378 Acres.

Ent 104101 Bk 0234 Pg 0409