

**DECLARATION OF  
COVENANTS, CONDITIONS AND  
RESTRICTIONS OF  
ASPEN CREST SUBDIVISION PHASE I**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (the "Declaration") is made this 25<sup>th</sup> day of February, 2007 by Scenic Development, Inc., a Utah corporation, herein after referred to as "Declarant."

**WITNESSETH:**

WHEREAS, Declarant is the owner of certain real property located in South Jordan City, Salt Lake County, State of Utah, more particularly described as follows (the "Subdivision"):

All of the Lots in Aspen Crest Subdivision, Phase I, in accordance to the official plat thereof recorded in the office of the Salt Lake County Recorder, Salt Lake County, Utah.

WHEREAS, Declarant intends that the building lots in the Subdivision (individually, a "Lot" and collectively, the "Lots"), together with the common easements as specified herein, shall hereafter be subject to the covenants, conditions, restrictions, reservations, and assessments set forth herein.

NOW, THEREFORE, Declarant hereby declares, that all of the Lots within the Subdivision shall be held, sold, conveyed, encumbered, leased, used, occupied and improved subject to the protective covenants, conditions, restrictions and equitable servitudes set forth in this Declaration, all of which are created for the mutual benefit of the owners of the Lots (each, a "Lot Owner"). It is the intention of the Declarant in imposing these covenants, conditions and restrictions to create a generally uniform pattern of development, to protect and enhance the property values and aesthetic values of the Lots by eliminating inconsistent uses or improvements, all for the mutual protection and benefit of the Lot Owners. The covenants, conditions and restrictions are intended to, and shall in all cases run with the title of the land, and be binding upon the successors, assigns, heirs, lien holders, and any other person holding any interest in the Lots, and shall inure to the benefit of all other Lots in the Subdivision. The covenants, conditions and restrictions shall be binding upon the Declarant as well as its successors in interest, and may be enforced by the Declarant or by any Lot Owner within the Subdivision.

**ARTICLE I  
ARCHITECTURAL CONTROL**

**SECTION 1.** It is the intention and purpose of these covenants, conditions and restrictions to impose architectural standards that result in residential dwellings, which are architecturally compatible in terms of proportion, materials, colors, and general appearance. To accomplish this goal, the Declarant hereby establishes the Architectural Control Committee (the "Architectural Committee"), which is empowered to oversee the construction of all dwellings and other improvements to Lots in the Subdivision. The Architectural Committee will consist of three (3) members. The initial committee will consist of three people appointed by the Declarant, who do not need to be Lot Owners. At the time that ninety percent (90%) of the Lots are sold to persons other than the Declarant, two (2) of the members of the Architectural Committee will be elected by the Lot Owners. At the time that all of the Lots are sold

to persons other than Declarant, all members of the Architectural Committee will be elected by the Lot Owners.

**SECTION 2.** A majority of the Architectural Committee may designate a representative to act for it. In the event of death or resignation of any member of the Architectural Committee, the remaining members of the Architectural Committee shall have full authority to select a successor. Neither members of the Architectural Committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this Declaration.

**SECTION 3.** Prior to the Lot Owner obtaining any building permit from South Jordan City, the Architectural Committee's approval is necessary. The approval or disapproval, as required in these covenants shall be in writing. The Lot Owner must submit a set of formal plans, specifications, and site plan to the Architectural Committee before the review process can commence, which plans will be dated at the time of receipt. In the event the Architectural Committee, or its designated representative, fails to approve or disapprove submitted plans within forty-five (45) days after plans and specifications have been received and dated by the Architectural Committee, approval will not be required and the related covenants shall be deemed to have been fully complied with.

**SECTION 4.** No dwelling, building, fence, wall or other structure shall be commenced, erected or maintained upon a Lot in the Subdivision, nor shall any exterior addition or change of alteration therein be made, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to the harmony of external design and location in relation to surrounding structures and topography by the Architectural Committee.

**SECTION 5.** Neither the Declarant nor any member of the Architectural Committee shall be liable to a Lot Owner for their actions, inactions, or approval or disapproval of any set of plans submitted to the Architectural Committee for review.

**SECTION 6.** The Architectural Committee's review is limited to those matters expressly granted in this Declaration. The Architectural Committee shall have no authority over the enforcement of building codes, zoning ordinances, or other statutes, laws, or ordinances affecting the development or improvement of real property and shall have no liability to any Owner whose plans were approved in a manner that included any such violation. Corrections or changes in plans to bring them into conformity with applicable codes must be approved by the Architectural Committee prior to construction.

## **ARTICLE II RESIDENTIAL AREA COVENANTS**

**SECTION 1. RESIDENCES.** No residential dwelling shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling not to exceed two stories in height and private garages for not more than four vehicles. All construction shall be comprised of new materials, except used brick and rock may be used with prior written approval of the Architectural Committee. Each Lot Owner will be required to have a residential dwelling constructed within 18 months of the initial sale of the Lot by the Declarant (or its assigns).

## SECTION 2. DWELLING GUIDELINES.

(a) Quality and Dwelling Guidelines. No prefabricated or manufactured homes will be allowed. Only one residential dwelling may be constructed on any Lot. Each residential dwelling must have an attached garage for a minimum of 3 cars. Finished square footage minimums as follows:

Rambler: The main level floor shall be a minimum of 1,850 square feet.

Two-story: The main level floor area shall be a minimum of 1,650 square feet finished and the second level floor area must be at least 1,200 square feet. However, if the main level floor area is 1,850 square feet finished, there shall be no minimum requirement for the second level floor area.

Multi-level: The main level and upper level floor area shall be a minimum of 1,850 sq. ft. finished (family room, half bath and laundry room behind garage shall not be counted as finished square footage).

For purposes of calculating square footage minimums, open porches and garages shall not be included.

(b) Exterior Surface Materials. Each residential dwelling (and any outbuildings) must have an exterior covered with all brick, rock or stucco, or a combination of brick, rock or stucco, and aluminum soffit and fascia as approved by the Architectural Committee. No exterior surface of a residential dwelling shall exceed [75%] stucco.

(c) Mailbox. Each dwelling must have a brick or rock mailbox.

(d) Dwelling Setback and Placement. Each dwelling and outbuilding must be placed on a Lot in an area that meets the South Jordan City setback requirements and any easement restrictions set forth on the Subdivision plat.

(e) Height. No structure on any Lot may exceed thirty-five (35) feet in height as measured at the natural grade on the Lot prior to construction, to a point half way between the eaves and the ridge line of the roof.

(f) Roof Design. Roof pitches must be within a range of an 8/12 or greater slope. Eaves and roofs must overhang by at least 16 inches. All roofing shall consist of 25-year or heavier architectural grade asphalt shingles. The Architectural Committee may, in its sole discretion, approve other roofing materials as new roofing material products are developed. Mansard, fake mansard, A-frame (except on entry ways or porches), gambrel, flat, and curvilinear roof designs are prohibited. All fascia boards must be at least 6 inches in width. All roof metal such as flashing, vent stacks, gutters and chimney caps will be made of anodized aluminum or galvanized metal painted to match the adjoining roof color.

(g) Antennas; Solar Equipment. All antennas must be enclosed within the dwelling. Any satellite dishes in excess of 24 inches in diameter must be located and screened in a manner approved in advance by the Architectural Committee so that they are not directly

visible from adjoining Lots. Solar panels will be permitted only with the consent of the Architectural Committee, and if permitted at all, must lie flat against the roof and may not differ in pitch or color from the roof surface on which they are mounted.

(h) Balconies and Decks. The area under any deck shall not be used for storage of equipment, firewood, building material, or similar material. The underside of any deck more than three feet above grade must be finished with aluminum or vinyl soffit in matching colors.

(i) Paving. Driveways and other paved areas, including their location, are part of the design review process and are subject to review and approval by the Architectural Committee. Driveway and other flat paved areas generally may be composed of concrete, exposed aggregate concrete, stamped concrete, quarry tile, brick or paving blocks. Gravel driveways are not permitted. Asphalt driveways are permitted only in side yards for outbuildings.

**SECTION 3. OUTBUILDINGS.** Any and all outbuildings must be approved by the Architectural Committee prior to South Jordan City issuing a building permit. The exterior of all outbuildings must match the exterior design of the residential dwelling on the Lot. No garage, storage unit or other outbuilding may be constructed prior to the construction of the dwelling on the Lot.

**SECTION 4. FENCING.** Any fencing installed must be a non-maintenance type and must be approved by the Architectural Committee and must meet South Jordan City's height and setback requirements. No chain link or wood fences of any type are allowed.

**SECTION 5. CITY ORDINANCES.** All improvements on a Lot shall be made, constructed and maintained, and all activities on a Lot shall be undertaken, in conformity with all laws and ordinances of South Jordan City, Salt Lake County, and the State of Utah which may apply, including, without limiting the generality of the foregoing, all zoning and land use ordinances. Any business operated out of a residential dwelling must be in strict compliance with the zoning and ordinances adopted by South Jordan City, may require a conditional use permit to be applied for at South Jordan City, and shall be operated under a valid South Jordan City business license.

**SECTION 6. EASEMENTS.** Easements for the installation and maintenance of utilities, drainage and irrigation facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain on or around said easement which may damage or interfere with the installation and maintenance of utilities, drainage and irrigation, or which may change the direction, obstruct or retard the flow of storm drainage or irrigation water in the buried utility lines or open channels within said easements. These easements may be used by Declarant or utility companies to provide services to properties other than this Subdivision (i.e., the other phases of the Aspen Crest project).

**SECTION 7. NUISANCES.** No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Commercial vehicles cannot be parked on the road or in front of the home, but must be kept in a garage on the Lot. No repairs to vehicles may be done on driveways or on the road. All

repairs must be done in a garage. Also, no semi-trucks or trailers will be allowed in the Subdivision at any time, and no curbside parking of any vehicle will be allowed in the streets within the Subdivision.

**SECTION 8. TEMPORARY STRUCTURES.** No structure of a temporary character, trailer, tent, shack, garage, barn or other outbuildings shall be used on any Lot at any time as a residence, either temporarily or permanently.

**SECTION 9. GARBAGE AND REFUSE DISPOSAL.** No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in sanitary containers. All such containers must be kept clean and in good sanitary condition. Each Lot and its abutting street are to be kept free of trash, weeds and other refuse by the Lot Owner. No unsightly materials or other objects are to be stored on any Lot in view of the general public including (but not limited to) old vehicles.

**SECTION 10. NO SERVICE YARDS.** There shall be no clothes lines, service yards, or storage yards. No mechanical equipment may be maintained outside of garages.

**SECTION 11. NO OFFENSIVE NOISES OR ODORS.** 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.

**SECTION 12. NO HAZARDOUS ACTIVITIES.** 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 homeowners insurance policy. This includes, without limitation, the storage of caustic, toxic, flammable, explosive or hazardous materials 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).

**SECTION 13. NO UNSIGHTLINESS.** No unsightliness is permitted on any Lot. This shall include, without limitation, (i) the open storage of any building materials (except during the construction of any residential dwelling unit or addition); (ii) lawn or garden furniture except during the season of use; and (iii) the storage or accumulation of any other material, vehicle, or equipment on the Lot in a manner that it is visible from any other Lot or any public street. All boats, trailers, motor homes and other recreational vehicles shall be stored in enclosed garages.

**SECTION 14. LANDSCAPING.** All front and side yards must be landscaped within one (1) year after a residential dwelling is occupied. Rear yards must be landscaped within two (2) years of occupation of a residential dwelling. All park strips must be planted in grass and trees of a type and size to be established by the Architectural Committee. All Lots and contiguous fence lines must be kept free of noxious weeds and must maintain a pleasant appearance.

**SECTION 15. LIVESTOCK and POULTRY.** No animals other than ordinary household pets may be kept on any Lot. No large animals, livestock or poultry shall be allowed on any Lots except by approval of the Architectural Committee.

**SECTION 16. OWNERSHIP.** This section serves to preserve the rights of ownership by making specific regulations that will protect the integrity of the Lots. Lot Owners will be responsible for any and all water retention and run-off from irrigation or other water sources, natural or man made, initiated at or pertaining to their Lot, that could affect or damage other Lots or property. Lot Owners will not be allowed to remove, restrict, or disassemble any drainage or irrigation system put in place by Declarant unless found to be defective and replaced by an equal or greater system.

**SECTION 17. COMPLETION REQUIRED BEFORE OCCUPANCY.** No dwelling may be occupied prior to its completion and the issuance of a certificate of occupancy by South Jordan City. In addition, the Architectural Committee may bar occupation of a dwelling if garage doors or other exterior features have not been completed.

**SECTION 18. ADDITIONAL DEPOSITS.** At the closing of each Lot, the Lot Owner will need to deposit **\$1,500.00** with Declarant for the **warranty escrow**, which is to cover any costs associated with damage caused by the Lot Owner (or its contractors or agents) to improvements that Declarant has installed (i.e., curb and gutter, sidewalk, meter and valve boxes, etc.) during the construction of a residential dwelling or landscaping of Lot during the warranty period of the Subdivision. Once the warranty period has expired with South Jordan City and no repairs are necessary on Lot Owner's Lot, and the Lot Owner's landscaping is complete (*as specified in Section 14 above*), whichever occurs last, the \$1,500.00 deposit will be returned to the Lot Owner. However, if the Lot Owner causes damage to the Subdivision improvements, or fails to install his landscaping within the period established by this Declaration, then the \$1,500.00 deposit will be retained by Declarant.

**SECTION 19. EXCEPTION FOR DECLARANT.** Notwithstanding the restrictions contained in this Article II, for the seven (7) years following the date on which this Declaration is filed for record in the office of the Salt Lake County Recorder, Declarant shall have the right to use any Lot owned by it 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 the Declarant.

### ARTICLE III GENERAL PROVISIONS

**SECTION 1. ENFORCEMENT.** Declarant or any Lot Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by Declarant or any Lot Owner to enforce any covenants or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Litigation costs arising from non-compliance of this Declaration will be borne by the losing party.

**SECTION 2. SEVERABILITY.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provision which shall remain in full force or effect.

**SECTION 3. CARRYOVER.** By agreeing to be bound by all of the provisions of these covenants and restrictions as contained herein, each Lot Owner does also hereby agree that he will be responsible to carry over to any sale, gift, pass through to heirs, divorce or exchange of any kind of the

property, these covenants and restrictions, and will not be released from their covenants, restrictions or any financial obligation agreed to herein.

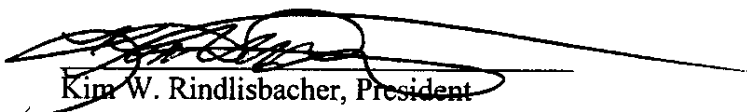
**SECTION 4. AMENDMENT.** The covenants and restrictions of this Declaration shall run with and bind the Subdivision and each Lot therein, for a term of forty (40) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended or terminated by a vote of at least seventy-five percent (75%) of the total votes of all Lot Owners, which vote shall be taken at a meeting called for such purpose, in which each Lot Owner is given written notice of such meeting not less than ten (10) days in advance of such meeting. Any approved amendment shall be reduced to writing, signed and recorded against the Lots at the Salt Lake County Recorder's Office and South Jordan City.

**SECTION 5. ADDITIONAL PHASES.** The Subdivision is the first phase of a development that Declarant is creating. Declarant intends to include the other phases of its development in the Subdivision by recording a plat three (3) additional phases, and amending this Declaration concurrent with the recordation of the plat for each phase to ensure that such lots are included in the Subdivision and are subject to this Declaration. Each Owner agrees to the inclusion of all phases within the Subdivision, and the recordation of Supplements or Amendments to this Declaration to include such additional phases, and authorizes Declarant to amend this Declaration to include such additional property without any additional action on the part of each Lot Owner.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand this 25<sup>th</sup> day of February, 2007.

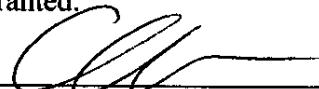
**DECLARANT:**

Scenic Development, Inc.

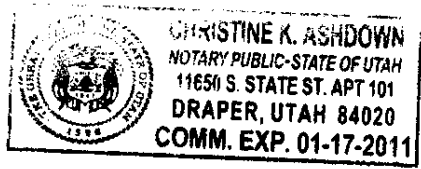
  
Kim W. Rindlisbacher, President

State of Utah, Salt Lake County:

On the 25<sup>th</sup> day of February, 2007, personally appeared before me Kim W. Rindlisbacher, President of Scenic Development, Inc., a Utah corporation, who upon being duly sworn (or affirmed) upon oath that he did sign the foregoing instrument with authority as granted.

  
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Notary Public

My Commission Expires: 1-17-2011  
Residing at: SoD Lake



*Gloria S. Jymara Copy received 4-5-07*

**EXHIBIT "A"**

Lots 101 thru 111, Aspen Crest Phase 1, according to the official plat thereof as recorded in the office of the Salt Lake County Recorder.

Parcel Identification Nos.	101	27-24-151-050-0000
	102	27-24-151-049-0000
	103	27-24-151-048-0000
	104	27-24-151-047-0000
	105	27-24-151-046-0000
	106	27-24-151-045-0000
	107	27-24-151-044-0000
	108	27-24-107-002-0000
	109	27-24-107-003-0000
	110	27-24-108-002-0000
	111	27-24-108-003-0000