

**DECLARATION  
OF  
RESTRICTIVE COVENANTS AND CONDITIONS  
OF**

**PHEASANT BROOK ESTATES  
PHASE ONE**

5396875

Declaration of Restrictive Covenants and Restrictions Agreements, Restrictions, Covenants, and Conditions affecting the real property know as PHEASANT BROOK ESTATES, according to the official plan thereof, executed by McWOOD-CANNON II, L.C., a Utah Limited Liability Company (hereinafter referred to as "Declarant")

**WITNESSETH:**

WHEREAS, "Declarant" is the owner of certain real property, recorded; ENTRY 5393238 BOOK 92-12 PAGE 249, in the office of the Salt Lake County Recorder, State of Utah, which real property is more particularly described as follows:

**BEGINNING** at a point which is South 00 05'37" West, 791.029 feet and South 89 54'23" East, 943.009 feet from the North Quarter Corner of Section 31, Township 3 South, Range 1 East, Salt Lake Base and Meridian; and running thence South 03 04'17" West, 1247.52 feet; thence West 853.19 feet; thence South 00 10'25" West, 303.51 feet; thence East, 838.38 feet; thence North 02 49'18" East, 20.84 feet; thence East, 173.74 feet to a point on a 200.00 foot radius curve to the right; thence along said curve 25.09 feet (chord bears South 04 25'28" East, 25.07 feet); thence East, 141.47 feet; thence North, 156.00 feet; thence West, 6.55 feet; thence North 03 07'10" East, 171.56 feet; thence South 86 52'50" East, 10.00 feet; thence North 03 07'10" East, 156.61 feet; thence East, 30.57 feet; thence North 03 07'10" East, 146.72 feet; thence South 86 52'50" East, 65.19 feet; thence North 84 54'04" East, 280.88 feet; thence North 05 01'08" East, 536.73 feet; thence North 82 18'48" West, 163.96 feet; thence North 68 22'04" West, 230.77 feet to a point on a 199.99 foot radius curve to the left; thence along said curve 39.30 feet (chord bears North 34 42'44" West 39.24 feet); thence North 05 01'08" East, 205.81 feet to a point on a 753.72 foot radius curve to the left; thence along said curve 100.86 feet (chord bears North 83 02'49" West, 100.79 feet); thence North 86 52'50" West, 206.43 feet to the point of beginning.

Contains 965,832 Sq. Ft.  
22.17 Acres

3832

BK6574PC1322

WHEREAS, the undersigned is about to sell lots of the above described property and desires to subject the said property and lots, pursuant to a general plan of improvement, to certain restrictions, conditions, covenants, and agreements between itself and several purchasers of said property as hereinafter set forth; and

WHEREAS, the undersigned desires to protect PHEASANT BROOK ESTATES, its surroundings and nature from undesirable encroachments, and to provide a means by which such character may be safeguarded and protected.

NOW, THEREFORE, the undersigned declares that the above described PHEASANT BROOK ESTATES is held and shall be sold, conveyed, leased, occupied, resided upon, hypothecated and held subject to the following restrictions, conditions, covenants and agreements between the undersigned and the several owners and purchasers of said property and their respective heirs, successors and assigns, which restrictions, conditions, covenants and agreements shall inure to and be for the benefit of all purchasers of lots in the subdivision, their successors and assigns:

1. ARCHITECTURAL CONTROL COMMITTEE:

A. Creation: An Architectural Control Committee consisting of the three (3) members has been created by the undersigned for the purpose of approving, rejecting, and requiring modification of any plans or specifications for structures to be erected on lots in said tract and for the enforcement of the covenants and conditions herein specified, so that all structures and properties shall conform to the restrictions and general plans of the undersigned and of the committee for the improvement and development of the whole tract.

B. Members: The Architectural Control Committee, as of the date of these Restrictive Covenants, consists of the following:

Edward T. Woodger  
6085 South 2230 East  
Salt Lake City, Utah  
84121

Tracey Cannon  
24 South 600 East  
Suite #4  
Salt Lake City, Utah  
84102

Ronald Smith  
949 East 12400 South  
Draper,  
Utah  
84020

C. Representative and Compensation: A majority of the committee may designate a representative to act for it. The members of the committee, or its designated nominee, shall be entitled to compensation for services performed pursuant to these Restrictive Covenants.

D. Vacancies: The undersigned may fill vacancies in the committee and remove members thereof as it so desires. However, when Ninety Percent (90%) of the lots in said tract have been sold (whether under contract or cash), then, upon written designation by not less than Eighty-Five Percent (85%) of those who are then owners of lots in said tract ("Owners" being record title owners or purchasers under contract) designating some particular person or persons to serve as a member or as members of said committee, the undersigned will forthwith so appoint such person or persons, if necessary, remove from the committee an existing member or existing members to create vacancies for the new appointee or appointees; provided, however, that at least one (1) person designated by the undersigned shall always be a member of said committee unless the undersigned desires otherwise.

E. Action: The Architectural Control Committee may act by affirmative vote or any two (2) of its members, and any authorization or approval made by the committee must be in writing and signed by at least two (2) members thereof. In the event the committee or its designated nominee fails to approve or disapprove of plans and specifications only, within fifteen (15) days after plans and specifications have been submitted to them, then approval shall be deemed to have been given, however, that irrespective of such approval or lack of it, no building, wall, fence, swimming pool, or other structure shall be erected or be allowed to remain on any residential site which violates any of the covenants or restrictions contained in the Declaration.

**2. MUTUAL AND RECIPROCAL BENEFITS:**

All of said restrictions, conditions, covenants and agreements shall be made for the direct and mutual and reciprocal benefit for each and every lot created and the owners thereof, and shall be mutual and equitable servitudes upon each of said lots in favor of each other lot and owner thereof on the aforesaid property and shall be reciprocal rights and obligations between the respective owners of all of the lots so created and shall be a privity of contract and estate between Grantees of said lots, their heirs, successors and assigns and shall, as to the owners of each lot in said tract, their heirs, successors, and assigns, operate as covenants and conditions running with the land for the benefit of all other lots in said tract.

**3. TERM OF RESTRICTION:**

Each and all of the restrictions, conditions, covenants and agreements set forth herein shall continue in full force and effect and be binding until the first day of May 2009, upon which date the same shall be automatically continued for successive periods of ten (10) years each unless it is agreed by vote of the then record owners of a majority of the property owners to terminate and do away with the same; provided, however, that at any time after May 1, 2009, these restrictions, conditions, covenants, and agreements may be altered or modified by the vote of the then record owners of a majority of the lots in the subdivision.

4. IMPROVEMENTS:

A. Type of Structures: No building other than one (1) single family dwelling house shall be erected on any of said lots, nor shall any house constructed on any of said lots be used for any purpose other than a dwelling house, except the Architectural Control Committee can allow to be located in the area churches, schools, playgrounds and any additional buildings can be constructed but must not exceed 1300 sq. ft. and they shall conform to Draper City ordinance and be approved by the Architectural Control Committee.

B. Temporary Structures: No structure of a temporary character, trailer, basement, tent, shack, garage, or other out buildings shall be used on any lot at any time as a residency, either temporarily or permanently.

C. Approval: For the purpose of further insuring the development of the lands in the Subdivision as a residential area of high standards, Declarant reserves the right to control the buildings and structures placed on each residential site. The owner or occupant of each site by acceptance of title thereto, or by taking possession thereof, covenants and agrees that no building, lamp post, swimming pool, or other structure shall be placed upon said premises unless and until the plans and specifications and plot plan have been approved in writing by Declarant or its nominee. Application for approval of the Architectural Control Committee shall be accompanied by a One Hundred Dollar (\$100.00) filing fee. Each such building, lamp post, swimming pool, or other structure shall be placed on the premises only in accordance with the plans and specifications and plot plan so approved in writing. Refusal or approval of plans and specifications may be based on any ground, including purely aesthetic grounds, which in the sole and uncontrolled discretion of the Declarant shall deem sufficient. No alteration of the exterior appearance (including without limitation, the color of any buildings or structures) shall be made without like written approval. All buildings and other structures must be approved in writing by Declarant or its nominee.

In connection with said approval, complete plans and specifications of all proposed buildings, structures (including all concrete and masonry walls, and exterior alterations, together with detailed plans showing the proposed location of the same on the particular building site, shall be submitted to the Declarant, or its nominee, before construction or alteration is started, and such construction or alteration shall not be started until written approval thereof is given by the Declarant, or its nominee.

All plans and specifications for such approval must be submitted at least fifteen (15) days prior to the proposed construction starting date.

As to all improvements, construction and alterations within the property, the Declarant, or its nominee, shall have the right to refuse to approve any design, plan or color for such improvements, construction or alterations, which is not suitable or desirable in the Declarant's opinion, for any reason, aesthetic or otherwise, and in so passing upon such design, the Declarant, or its nominee, shall have the right to take into consideration the suitability of the proposed building or other structure, and the material of which it is to be build and the exterior color scheme to the site upon which it is proposed to erect the same, the harmony thereof with the surroundings, and the effect or impairment that said structures will have on the view of surrounding building sites, and any and all facts, which, in the Declarant's opinion, shall affect the desirability or suitability of such proposed structure, improvements or alterations.

D. Size: The ground floor area of the main structure, (rambler) one-story not including open porches and garages, shall not be less than 1,600 square feet, excepting that a two-story home shall not have less than 2,200 square feet and a minimum of 1,300 square feet on the ground floor area. Three (3) and four (4) level homes must have not less than 1,850 square feet finished. This can be achieved by counting the upper two (2) levels and 1/2 of the third level. A two (2) car garage either attached or detached with not less than 500 sq. ft. is required, and Declarant would recommend three (3) car garages. Homes may be reduced by 100 square feet, if three (3) car garages is built. Any auxilliary building must be so designed and constructed as to be compatible in appearance with the main building.

E. Height: No structure shall exceed two stories above the ground level for living space or be more than thirty five (35) feet in height, without prior written approval of the Architectural Control Committee and Draper City.

F. Construction: When the erection of any residence or other structure is once begun, work thereon must be completed within a reasonable length of time (six months shall be reasonable). Initial erection of any residence must begin within two (2) years of closing of said lot. No building shall be erected upon any residential site so that any part thereof, including eaves and overhangs, shall be:

1). closer than twenty five (25) feet to the front boundary line of said premises which extends along a platted street in the Subdivision;

2). closer than ten (10) feet to any side boundary line.

3). closer than twenty (20) feet to any rear boundary line of said premises.

G. Masonry: No structure shall be built with less than 25% brick or stone, and no structure shall be built with less than 100% of all the faces of the structure with either brick, stone, or stucco, ( with at least fifty (50%) percent of the front being either brick or stone), unless otherwise approved by the Architectural Control Committee. No loghouses shall be constructed.

H. Siding: Limited Siding for special trim designs areas may be approved by the Architectural Control Committee, amounting to no more than of fifteen (15%) percent of the surface; however, soffit or fascia sections will be approved.

I. Resubdivision: None of said lots may be resubdivided.

#### 5. FENCES AND LANDSCAPING:

No fence or wall shall be erected, placed or altered on any lot near to any street in the minimum building setback line, except on corner lots, no walls, fences or hedges will be permitted with in twenty five (25) feet of the property line as measured to either street, except for required retaining walls, unless prior approval is given by the Architectural Control Committee. No wall or fence except a decorative wood, stone or brick fence not exceeding six feet in height measured from the adjoining ground surface inside the fence, may be erected or maintained on any Lot.

Landscaping of front yard and all other portions of the lot facing any street including parkways will be completed within one year of occupancy. This will include sod and at least three (3) two inch trees, twelve (12) two gallon shrubs, and twelve (12) five gallon shrubs. Landscaping will also include two (2) trees of a type and size approved by the Architectural Control Committee, and paid for by Buyer, to be placed in the parkways as directed by the Architectural Control Committee. Landscaping will also include one (1) outdoor light with electric photo cell of a type and size approved by the Architectural Control Committee, and paid for by Buyer, to be placed as directed by the Architectural Control Committee.

Boundary planting along any lot lines, except trees with single trunks shall not be permitted to grow higher than six (6) feet.

All owners shall likewise maintain their hedges, plants, shrubbery, trees, and lawns in a neat and trim condition at all times.

The surface grade or elevation of the various lots and other residential sites in the Subdivision shall not be substantially altered or changed in any manner which would affect the relationship of such lot or other residential sites adjoining, or which would result in materially obstructing the view from any other lot or residential site in the Subdivision.

**6. PETS, ANIMALS, ETC.:**

No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose.

**7. UTILITIES:**

All electric, television, cable, radio and telephone line installments and connections from Lot Owner's property line to residence or structures shall be placed underground.

**8. SIGNS:**

No advertising sign (except one of not more than five (5) square feet "For Rent" or "For Sale" sign per parcel), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on the premises, nor shall the premises be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Lot or any resident thereof. Provided, further, however, the foregoing covenants shall not apply to the business activities, signs and billboards or the construction and maintenance of buildings, if any, of the Declarant, its agents and assigns during the construction and sale period, which are approved by the Architectural Control Committee.

**9. RUBBISH CONTROL:**

No rubbish shall be stored or allowed to accumulate on any lot or property, improved or unimproved, in said subdivision. Rubbish shall include, but not be limited to bushes or weeds, household wastes, and automobiles, campers, trailers, boats, or parts thereof, which have been in a state of disrepair or unassembled for a period exceeding thirty (30) days. Trash, garbage or other wastes shall be kept in sanitary containers and shall be kept in a clean and sanitary condition and shall be screened by adequate planting or fencing as herein permitted so as to conceal from view of neighboring Lots and streets. Each lot, whether improved or unimproved, shall be kept free of trash, weeds, rubbish 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.

**10. OIL AND MINING OPERATIONS:**

No oil drilling, oil development operation, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any lot. No derrick or other structure designed for use in booring for oil or natural gas shall be erected, maintained or permitted upon any lot.

**11. ANTENNAS:**

No radio aeriels or ham radio broadcast or receiving apparatus, shall be erected, maintained, or placed on any residential site. Rotary beams or other similar devices shall not be constructed on any residential site.

**12. NON-PERMITTED PARKING:**

No campers, boats, boat-trailers, house-trailers, automobiles, trucks, motorhomes, trailers, or horse trailers shall be stored in excess of five (5) days in driveways, on streets, or other areas in open view within this subdivision. Any of the above vehicles, or any part thereof, not in actual use shall be stored or placed behind a fence, in a garage or other fully enclosed space.

**13. MAIL BOXES:**

All mail box types and locations so specified shall be such as to meet all requirements of the Post Office Department.

**14. EASEMENTS:**

Easements for installation and maintenance of utilities and drainage are hereby reserved on each lot as show on the final recorded plat. No structure of any kind shall be erected over any of such easements, except upon written permission of the Declarant, its successors or assigns and the various utility companies which may have said easements running in their favor.

**15. 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.

**16. BREACH OR VIOLATION OF COVENANTS:**

In the event of a violation or breach or attempted violation or breach of any of these covenants, restrictions, limitations, conditions, or agreements by any person or concern claiming by, through or under Declarant, or by virtue of any judicial proceedings, Declarant or the owner of any lot or residential site in the Subdivision, or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel compliance with the terms hereof or to prevent such violation or breach.

In addition to the foregoing right, whenever there shall have been built on any lot in the Subdivision any structure which is in violation of these restrictions, to enter upon the property where such violation exists and summarily abate or remove the same at the expense of the owner, who, on demand, shall reimburse Declarant, or its nominee, for the cost thereof; and such entry and abatement or removal shall not be deemed a trespass.



**17. FAILURE TO ENFORCE:**

The failure to enforce any right, reservation, covenant, restriction, limitation, condition or agreement herein contained, however long continued, shall not be deemed a waiver of the right to do so thereafter, either as to the breach or violation involved or as to any similar breach or violation occurring prior or subsequent thereto, and no such failure shall bar or affect the endorsement of any such right, reservation, covenant, restriction, limitation, condition or agreement as to any such breach or violation thereof. The invalidation by any Court of any reservation, covenant, restriction, limitation, condition or agreement herein contained shall in no way affect any of the other provisions hereof and the same shall remain in full force and effect.

**18. RECOVERY:**

In the event the Declarant, Architectural Control Committee or any property owner in this subdivision are successful in prosecuting any violation of these restrictive covenants, he may recover, in addition to any other damages, costs, and expenses of the litigation, including reasonable attorneys fees from the party found to be in violation thereof.

**19. VOTING:**

In voting pursuant to any applicable provision hereof, each lot owner of record shall be entitled to one (1) vote for each lot owned and the action resulting from said vote shall be evidenced by a written instrument signed and acknowledged by such lot owners and the same shall be recorded in the County Recorder's Office of Salt Lake County, Utah.

**20. PARAGRAPH HEADINGS:**

Paragraph headings and phrases at the beginning of certain paragraphs are inserted only as a matter of convenience and for reference, and in no way are, or are they intended to be, part of this Declaration nor are they in any way to define, limit or describe the scope or intent of the particular paragraph to which they refer.

IN WITNESS WHEREOF, the undersigned Declarant herein has hereunto set its hand and seal this 14TH day of December, 1992.

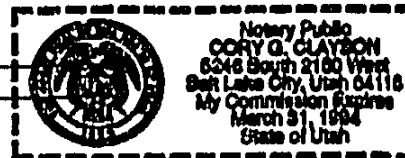
McWOOD/CANNON II, L. C.  
By Edward T. Woodger  
Member and General Manager

State of Utah               )  
                                      )SS.  
County of Salt Lake      )

On this 14TH day of December, 1992, before me, personally appeared Edward T. Woodger who acknowledged that he is authorized for and on behalf of said Limited Liability Company, and did so execute the above and foregoing Declaration of Covenants, Conditions and Restrictions of The PHEASANT BROOK ESTATES Subdivision as a free and voluntary act and deed of said Limited Liability Company for the uses and purposes therein set forth, and who duly acknowledged to me that they executed the same.

Notary Public

My Commission Expires: 3-31-94  
Residing at: SLS, Utah



-10-

1600

December 16, 1992  
5396875  
16 DECEMBER 92 04:19 PM  
KATIE L. DIXON  
RECORDER, SALT LAKE COUNTY, UTAH  
SUTHERLAND TITLE  
REC BY: SHARON WEST , DEPUTY

BK6574PG1331