

Declaration of Protective Covenants, Conditions, and Restrictions of
Trapper's Pointe
Planned Residential Unit Development

This Declaration is made and executed this 5th day of August, 1996,
by Mt. DevCo, Inc., hereafter referred to as "Developer" pursuant to the provisions
in the Morgan County Land Development Code.

RECITALS

A. Developer is the record Owner of that certain tract of property more particularly described as Trappers Pointe. Developer desires to create on said property a Planned Residential Unit Development with open spaces and other common areas. Developer desires provide for preservation of the values and amenities in said development and for the maintenance of the common areas. To this end and for the benefit of the property and of the owners thereof, Developer desires to subject the property of the Declaration to the covenants, restrictions, easements, charges and liens hereinafter set forth. The developer may subject additional real property from time to time to the conditions herein.

B. Developer deems it desirable for the efficient preservation of the values and amenities in the development, to create an entity which possesses the power to maintain and administer the common areas, to collect and disburse the assessments and enforce the provisions of this declaration. For such purpose Developer will, in conjunction with the recordation of this Declaration, cause to be incorporated under the laws of the State of Utah, as a nonprofit corporation, Trappers Pointe Homeowners Association.

NOW, THEREFORE, for the foregoing, Developer and Owner declare that the property of this Declaration is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

I. GENERAL PURPOSES

The platted portion of the real property described in plat "A" and any subsequent phases, both common and private, are subject to the conditions, restrictions, reservations, easements, liens and/or charges hereby declared to ensure the best use thereof; to protect the owners of lots against such improper use of surrounding lots as will depreciate the value of their property; to provide for the

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REQUEST: SMITH RODGER

preservation of the open areas especially the natural landscape, wildlife and streams; to guard against the erection thereon of poorly designed or proportioned structures, and structures built of improper or unsuitable materials; to obtain harmonious color schemes; to ensure the highest and best development of said property consistent with the ordinances and land use development policies of Morgan County; to encourage and secure the erection of attractive homes thereon, with appropriate locations thereof on the lots; to secure and maintain proper setbacks from roads, and adequate free spaces between structures; and in general provide adequately for a high type and quality of improvements in said property, and thereby to enhance the values of investments made by purchasers of lots therein.

II. MEMBERSHIP AND VOTING RIGHTS

1. Membership. Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to the lot in which the Owner has the necessary interest, and shall not be separated from the lot to which it appertains.

2. Voting Rights. The Association shall have the following two classes of voting membership:

CLASS A - The class A members shall be all Owners, but excluding the Developer until the class B membership ceases. Class A members shall be entitled to one vote for each lot in which the interest required for membership in the Association is held. In no event, however, shall more than one class A vote exist with respect to any lot.

CLASS B - The class B member shall be the Developer. The class B member shall be entitled to six (6) votes for each lot in which it holds the interest required for membership in the Association. The class B membership shall automatically cease and be converted to class A membership on the first to occur of the following events:

- a. When the total number of votes held by all class A members equals the total number of votes held by the class B member.
- b. The expiration of twenty (20) years after the date on which this Declaration is filed for record in the office of the County Recorder of Morgan County, Utah.

3. Multiple Ownership Interest. In the event there is more than one Owner of a particular lot, the vote relating to such lot shall be exercised as such Owners may determine among themselves. A vote cast at any Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the lot concerned unless an objection is immediately made by another Owner of the same lot. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

III. PROPERTY RIGHT IN COMMON AREAS

1. Easement of Enjoyment. Each member shall have a right and easement of use and enjoyment in and to the common areas. Such right shall be appurtenant to and shall pass with title to each lot and in no event shall be separated therefrom. Any member may delegate the right and easement of use and enjoyment described herein to any family members, household guest, tenant, lessee, contract purchaser, or other person who resides on such member's lot.
2. Limitation on Easement. A member's right and easement of use and enjoyment concerning the common areas shall be subject to the following:
 - a. The right of the Association to suspend a member's right to the use of any recreational facilities included in the common areas for any period during which an assessment on such member's lot remains unpaid and for a period not exceeding ninety (90) days for any infraction by such member of the provisions of this Declaration or of any rule or regulation promulgated by the Association;
 - b. The right of the Association to impose reasonable limitations on the number of guests per member who at any given time are permitted to use the common areas;
 - c. The right of Morgan County and any other governmental or quasi-governmental body having jurisdiction over the property to access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained with the property for purposes of providing police and fire protection, transporting school children, and providing other governmental or municipal service.
 - d. The right to develop and the responsibility to improve a public right-of-way for future access, from Frontier Drive in the Trapper's Pointe P.R.U.D. to the property abutting the western portion of the "common area" open space, will be the responsibility of the future developer. The home owner's association will not be compensated for any property used for this future access.

IV. ASSESSMENTS

1. Personal Obligation and Lien. Each Owner shall, by acquiring or in any way becoming vested with his interest in a lot, be deemed to covenant and agree to pay to the Association the monthly assessments described in this Article, together with the hereinafter provided for interest and costs of collection. All such amounts shall be, constitute, and remain (i) a charge and continuing lien upon the lot with respect to which such assessment is made; and (ii) the personal obligation of the person who is the Owner of such lot at the time the assessment falls due. No Owner may

exempt himself or his lot from liability for payment of assessments by waiver of his rights concerning the common areas or by abandonment of his lot.

2. Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of residents of the Property. The use made by the Association of funds obtained from assessments may include payment of the cost of: taxes and insurance on the common areas; maintenance, repair, and improvement of common areas; management and supervision of the common areas; establishment and funding of a reserve to cover major repair of the improvements within the common areas; and any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions or purposes under this Declaration or its Articles of Incorporation.

3. Maximum Monthly Assessment. As of the date of this recording of this Article, each lot shall be subject to a monthly assessment of not more than \$25.00. From and after one year from recording date of this Article, the maximum monthly assessment may be increased or decreased so long as the change is assented to by sixty percent (60%) of the votes of each class or membership which Members present in person or represented by proxy are entitled to cast at a meeting duly called for such purpose. Written notice setting forth the purpose of the meeting shall be sent to all members at least ten (10) but not more than thirty (30) days prior to the meeting date. The Board of Directors of the Association may from time to time and at its discretion, set the amount of the monthly assessment at any sum not in excess of the then applicable maximum amount.

4. Quorum Requirements. The quorum required for any action authorized by Section 3 above shall be as follows: at the first meeting called the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirements set forth in Section 3) at which a quorum shall be one-half of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting.

5. Uniform Rate of Assessment. Monthly assessments shall be fixed at a uniform rate for all occupied lots; provided, however, that until home construction is begun on a lot the monthly assessment applicable to such a lot shall be one-fourth (1/4) of the monthly assessment fixed for a fully improved lot occupied for residential purposes. Once home construction has begun, the next monthly assessment will be increased to one-half (1/2) of the monthly assessment fixed for lots which have been improved with a living unit and occupied for the first time for residential purposes. (The Developer shall only be subject to a 1/10th fee until the lot is sold) and any builder of a speculation home is subject to the above provisions with the added stipulation that the one-half (1/2) of monthly assessment shall be

increased to the full assessment in any event not later than nine (9) months after construction began on the particular lot.

6. Effect of Nonpayment--Remedies. Any assessment not paid when due shall, together with the hereinafter provided for interest and costs of collection, be, constitute, and remain personally liable for payment. Such personal liability shall not pass to the Owner's successors in title unless expressly assumed by them. If the assessment is not paid within thirty (30) days after the date on which it becomes delinquent, the amount thereof shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum and the Association may bring an action either against the Owner who is personally liable or to foreclose the lien against the lot.

V. OPERATION AND MAINTENANCE

1. Operation and Maintenance by Association. The Association shall provide for such maintenance and operation of the common areas as may be necessary or desirable to make them appropriately functional, attractive and generally in good condition and repair.

2. Board of Directors. The Board of Directors of the Association shall have the authority to enter into agreement on behalf of the Association with lenders, obligating the Association to carry such hazard, flood, and liability insurance and a fidelity bond as shall be required by lenders.

3. Manager. The Association may carry out through a Property Manager any of its functions which are properly the subject of delegation.

4. Temporary Snow Removal. Responsibility for any snow removal on the dedicated public streets within the boundaries of the Trapper's Pointe Planned Residential Unit Development will be borne, temporarily by the home owner's association. The Morgan County road department will not provide snow removal until the Trapper's Pointe street system is connected to the existing street system in the Highlands Subdivision.

VI. GENERAL USE RESTRICTIONS

All real property within Trappers Pointe shall be held, used and enjoyed subject to the following limitations and restrictions:

1. Use of Common Areas. The common areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to lots and living units.

2. Use of Lots and Living Units. All lots are intended to be improved with Living Units and are restricted to such use. Each Living Unit shall be used only as a single-family residence not to exceed two stories in height and a private 2 or more car garage (side or rear-entry garages are encouraged). No lot or Living Unit shall be used, occupied, or altered in violation of law, so as to do any of the following: 1) jeopardize the support of any other Living Unit, 2) create a nuisance, or 3) interfere with the rights of any Owner, 4) anything which would result in an increase in the cost of any insurance covering the common areas, or 5) to increase use beyond one (1) single family unit per lot.

3. Dwelling Size. No dwelling shall be permitted on any lot with the ground floor area of the main structure, exclusive of open porches and garages, of less than 1,500 square feet for one story dwelling, nor less than 1,800 square feet for a dwelling of more than one story. A split entry or bi-level dwelling with garage under must exceed 2,000 square feet on main levels.

4. Exception for Developer. Notwithstanding the restrictions contained in this Article VI, for the twenty (20) year period following the date on which this Declaration is filed for record in the office of the County Recorder of Morgan County, Utah, Developer shall have the right to use any lot or Living Unit owned by it, and any part of the common areas reasonably necessary or appropriate, in furtherance of any other activities designed to accomplish or facilitate improvement of the common areas or improvement and/or sale of all lots owned by Developer.

5. Easements. Easements for installation and maintenance of utilities and drainage 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 which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the Owner of the lot, except for those improvements for which a public authority or utility company is responsible.

6. Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon any property within Trappers Pointe and no odors shall be permitted to arise therefrom so as to render any such property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the occupants of any property. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells, or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on any such property without the prior written approval of the Board.

7. Animals. Dogs, cats, or other household pets may be kept. Any such animals shall be controlled by owner on his own lot.

8. Accessory Buildings. It is understood that guest facilities, storage sheds, and other types of rural buildings, except outhouses, may be constructed on the property so long as they are approved by the Architectural Control Committee and constitute a harmonious development of properties. No basement, shack, garage, or other out-building (except the guest facility) shall, at any time, be used for human habitation, temporarily or permanently, nor shall any structure of a temporary character be used for human habitation. The guest facility shall not be used for a permanent residence. No old or secondhand structures shall be moved onto any of said lots, it being the intention hereof that all dwellings and other buildings be erected on said lots, or within said Planned Residential Unit Development, shall be new construction of superior quality, workmanship and materials.

9. Unightly Articles. No unsightly articles shall be permitted to remain so as to be visible from adjoining property. No compost piles and grass, shrub, or tree clippings or plant waste, metals, bulk materials, scrap, refuse, or trash shall be kept, stored, or allowed to accumulate on any property except within an enclosed structure or appropriately screened from view.

10. No Further Subdividing. No lot, common area or residence may be further subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owners thereof (excluding Developer); provided, however, that nothing herein shall be deemed to prevent the transfer or sale of any lot or living unit to more than one person to be held by them as tenants in common, joint tenants, tenants by the entirety or as community property.

11. Signs. No sign of any kind shall be displayed to the public view without the approval of the Architectural Committee, except such signs as may be used by Developer in connection with the development of Trappers Pointe and the sale of residences and lots, and except such signs of customary and reasonable dimensions as set forth by the Committee as may be displayed on or from a residence advertising the residence for sale or lease. Any "for sale" or "for lease" signs not more than three (3) feet by two (2) feet, plain white with black block letters, shall not require Committee approval. A residential identification sign is permitted but should not exceed two (2) square foot in surface area.

12. Vehicle and RV Parking. No automobiles, trailers, boats or other vehicles are to be stored on streets of front and side lots unless they are in working condition, properly licensed, and are being regularly used. No vehicle or RV shall be permitted to be parked on any street within Trappers Pointe between the hours of 2 o'clock a.m. and 6 o'clock a.m. of any morning. No large vehicle (semi-tractor trailers or buses) shall be parked within the streets of the Planned Residential Unit Development at any time. All RV storage to be on side or rear of homes and concealed from front of street.

13. No Hazardous Activities. No activities shall be conducted on any property

and no improvements constructed on any property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any property and no open fires nor incinerators shall be lighted or permitted on any property except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace, as within a designated common area.

14. Exemption of Developer. Nothing in the Trappers Pointe Restrictions shall limit the right of Developer to complete excavation, grading and construction of improvements to any property within Trappers Pointe owned by Developer, or to alter the foregoing or to construct such additional improvements as Developer deems advisable in the course of development of the same in Trappers Pointe as a model home or real estate sales or leasing office. The rights of Developer hereunder and elsewhere in these Restrictions may be assigned by Developer.

15. Antennas, Satellite Dishes, & Etc. All antennas are to be placed in the attic out of view. Satellite dishes over 24" in diameter are to be hidden from view and located in the rear or side yards. All roof mounted heating and cooling equipment to be located on the rear or side of the roof, remaining out of view.

16. Motorbikes. All motorcycles, trail bikes, three-wheel powered devices, automobiles, two or four-wheel drive recreational type vehicles are to be properly muffled to reduce excessive noise and are to be operated only on established roads and streets and are specifically prohibited from other common areas, footpaths and walkways. No hill-climbing activities by motorized vehicles is allowed on the real property because of the noise and erosion-enhancing of such activities.

17. Liability for Damage to Common Area. Any damage done to the common area or facilities thereon, by persons or their vehicles while in Trappers Pointe shall be paid for by the person or persons doing the damage.

18. Parkstrip Landscaping. All parkstrips are to be landscaped and maintained with similar street trees and appropriate ground cover (lawn). The street trees shall be a Spring Snow Flowering Crab (fruitless), a minimum of 2 inch caliper at the time of planting, and spaced every 15' to 20' apart.

19. Mail Boxes. All mail boxes and posts will be installed and constructed of similar material. The material will be a 4" x 4" white PVC post with a spire top and a white mail box. The address numbers will be mount vertically on the post facing the street in black 3" numbers.

20. Front Yard Landscaping. The front yard landscaping will be completely installed within 6 months of occupancy of the dwelling unit. A front yard landscaping plan will need to be approved by the Architectural Control Committee. Landscaping shall be defined as live plant material, primarily green in color.

VII. ARCHITECTURAL CONTROL

1. Architectural Control Committee. The Board of Trustees of the Association shall appoint a three member Committee, the function of which shall be to insure that all improvements and landscaping within the property harmonize with existing surroundings and structures. The Committee shall be composed of Owners. If such a Committee is not appointed, the Board itself shall perform the duties required of the Committee.
2. Standard. In deciding whether to approve or disapprove plans and specifications submitted to it, the Committee shall use its best judgment to insure that all improvements, construction, landscaping and alterations on lots within the property conform to and harmonize with existing surroundings and structures.
3. Land Use and Building Type. No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted on any lot other than one detached single family dwelling not to exceed two stories in height and a private two (2) or more car garage. (Side or rear-entry garages are encouraged) Attached carports are prohibited.
4. Approval Procedure. All plans including site plans and specifications for building upon a lot by an Owner and/or builder must be submitted to the Architectural Control Committee for approval prior to commencing construction. Such approval is conditioned upon compliance with the following procedure:
 - a. A cross section of the proposed wall of the home indicating type of support, insulation, and exterior finish.
 - b. One complete set of all exterior colors in the form of samples or color chips, with detailed information as to the location of the color, including brick, siding, trim, roofing material, etc.
 - c. The Owner/builder submitting a set of landscape plans for front yard (as defined herein).

Any subsequent changes, improvements, or alterations in such plans must be submitted to the Committee for written approval.

Any approval or disapproval must be made in writing within thirty (30) days after submission. In the event the Committee fails to take any action within such period, it shall be deemed to have approved the material submitted.

5. Construction. Construction on all lots must commence within eighteen (18) months of the date of closing. In the event that construction has not been commenced within the 18 months, written approval must be obtained from the Committee. The building time shall not exceed twelve (12) months from start to finish. All debris, excavation dirt, etc., associated with the building process shall be

removed within these specified building times. Excavation dirt shall either be removed entirely or shall be spread out and reseeded within this specified time so as to return the lot to a pleasing appearance. If reasonably necessary to enable such improvement, construction, landscaping, or alteration, the person or persons carrying out the same shall be entitled to temporarily use and occupy unimproved portions of the common areas and of the lots in the vicinity of the activity. No building should be permitted to remain incomplete for a period in excess of one year from the date the building was started. The Committee is entitled to approve plans and specifications which are not in strict compliance with these covenants, if the Committee determines such would be in the best interest of the Planned Residential Unit Development.

6. No Liability for Damages. The Committee shall not be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Article VII.

7. Failure of the Committee to Insist on Strict Performance--No Waiver. The failure of the Committee to insist in any one or more instances, upon the strict performance of any of the terms, conditions, or restrictions of the Covenants contained herein, or to exercise any right or option herein contained, or to serve any notice of or to institute any action, shall not be construed as a waiver or relinquishment for the future, and such term, covenant, condition, or restriction shall remain in full force and effect. The receipt by the Committee of any assessment from a lot Owner, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by the Committee of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Committee.

VIII. BUILDING RESTRICTIONS

1. Building Location. The following minimum yard requirements shall apply to all Living Units in Trappers Pointe:
 - a. Front Yard. No building shall be located on any lot nearer than thirty (30) feet to the front lot line, unless a hardship is shown as concerning hook-up to the sewer and then set back will be allowed by review of the Architectural Committee.
 - b. Side Yard. Each lot shall have side yards consisting of at least twenty-four (24) feet, with a minimum of ten (10) feet on one side.
 - c. Side Yard - Corner Lots. On corner lots, the side yard contiguous to the street shall not be less than twenty (20) feet, and shall not be used for vehicular parking except such portion as is devoted to driveway use for access to a garage.
 - d. Rear Yard. Each lot shall have a rear yard of not less than thirty (30) feet.
 - e. Building Height. No lot or parcel of land in the development shall

have a building or structure used for dwelling or public assembly which exceeds a height of two and one half (2 1/2) stories. Chimneys, flagpoles, church towers and similar structures not used for human occupancy are excluded in determining height.

f. Accessory Buildings. An accessory building shall not be built upon a front yard, or closer than five (5) feet to a side lot property line or closer than five (5) feet to a rear property line. All accessory buildings must be approved by the Architectural Control Committee prior to construction.

IX. QUALIFICATIONS FOR HOME MORTGAGE LOANS

Rights of First Mortgagee. Nothing contained herein or in the bylaws of the Association shall impair the rights of a first mortgagee to:

1. foreclose or take title to a lot pursuant to the remedies provided in the mortgage, or
2. accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgagor, or
3. participate in the subsequent sale or lease of the lot so acquired by the mortgagee.
4. Provided further, any first mortgagee who obtains title to a lot pursuant to 1, 2 and 3 above, will not be liable for that lot's unpaid dues or charges which accrue prior to the acquisition of title to such lot by the mortgagee.

Power of First Mortgagees. First mortgagees of any Trapper's Pointe lots may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any of the Associations' Common Areas and may pay overdue premiums on hazard insurance policies, or secure a new hazard insurance coverage on the lapse of a policy, for such Common Areas and first mortgagees making such payments shall be owed immediate reimbursement therefore from the Association.

Written Notification to First Mortgagee. A first mortgagee, upon request, shall be entitled to written notification from the Trustees of the Association of any default in the performance by any individual lot Owner of any obligation of the Owner under the Articles of Incorporation, Bylaws of the Association or this Declaration, which default is not cured within sixty (60) days after notice to the said Owner.

X. MISCELLANEOUS

1. Notices. Any notice required or permitted to be given to any Owner or Member

under the provisions of this Declaration shall be deemed to have been properly furnished if mailed, postage prepaid, to the latest address for the person who appears as a Member or Owner, in the records of the Association at the time of mailing.

2. Rules and Regulations. The Association shall have authority to promulgate and enforce such reasonable rules, regulations and procedures as may be necessary or desirable to aid the Association in carrying out any of its functions or to insure that the property is maintained and used in a manner consistent with the interest of the Owners.

3. Amendment. Any amendment to this Declaration shall require:

- a. The affirmative vote of at least seventy-five (75) percent of all members entitled to vote thereon.
- b. Written notice setting forth the purpose of the meeting and the substance of the amendment proposed shall be sent to all Members at least ten (10) but not more than thirty (30) days prior to the meeting date. The quorum required for any such meeting shall be as follows: at the first meeting called the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of the Class A membership shall constitute a quorum. If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirement set forth in the foregoing portion of this Section 2) at which a quorum shall be one half of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting. Any amendment authorized pursuant to this Section shall be accomplished through the recordation of any instrument executed by the Association (and by the Developer if the Class B membership then exists). In such instrument an officer or Trustee of the Association shall certify that the vote required by this Section for amendment has occurred.

4. Consent in Lieu of Vote. In any case in which this Declaration required for authorization or approval of a transaction the assent or affirmative vote of a staged percentage of the votes present or represented at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Members entitled to cast at least the stated percentage of all membership votes outstanding in connection with the Class of membership concerned. The following additional provisions shall govern any application of the Section 4.

- a. All necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Member.
- b. The total number of votes required for authorization or approval under this Section 4 shall be determined as of the date on which the last consent is signed.
- c. Except as provided in the following sentence, any change in

ownership of a lot which occurs after consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose. A change in ownership which would otherwise result in any increase in the total number of Class A votes outstanding shall, however, be effective in that regard and shall entitle the new Owner to give or withhold his consent.

d. Unless the consent of all Members whose memberships are appurtenant to the same lot are secured, the consent of none of such Members shall be effective.

5. Mortgage Protection. All assessments of the Association and the lien thereof shall be subordinate to the lien of any first mortgage or deed of trust on a lot. Each holder of a first mortgage lien on a lot who comes into possession of the lot by virtue of foreclosure of the mortgage, or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale will take the lot free of any claims for unpaid assessments and charges against the lot which accrue prior to the time such entity comes into possession of the lot, except for claims for a share of such assessments or charges resulting from a reallocation of such assessments or charges to all lots including the mortgaged lot.

6. Developer's Right Assignable. The rights of Developer under this Declaration or in any way relating to the Property may be assigned.

7. Interpretation. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders. The invalidity or unenforceability of any portion of the Declaration shall not affect the validity of or enforceability of the remainder thereof. This Declaration shall be liberally construed to effect all of its purposes.


8. Covenants to Run with Land. This Declaration and all of the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall insure to the benefit of developer, all parties who hereafter acquire any interest in a lot or in the Common Areas, and their respective grantees, transferees, heirs, devisees, personal representatives, successors and assigns until December 31, 2006, at which time said covenants shall be automatically extended for successive periods of ten (10) years, unless by the vote of seventy-five percent (75%) of the then Owners of the plotted lots these covenants are terminated. Each Owner or occupant of a lot or Living Unit shall comply with, and all interests in all lots or in the Common Areas shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments and determinations contemplated by this Declaration. By acquiring any interest in a lot or in the Common Areas, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

If the parties hereto or any of them, or their heirs or assigns, shall violate or

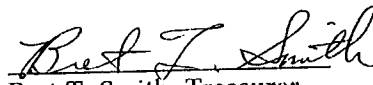
attempt to violate any of the covenants, servitudes, obligations, restrictions, easements, charges, or liens contained herein, it shall be lawful for any other person or persons owning any lot situated in Trapper's Pointe Planned Residential Unit Development to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any of the covenants, servitudes, obligations, restrictions, easements, charges, or liens, and either to prevent him or them from so doing or to recover damages, attorney's fees, costs of Court or other dues for such violation.

9. Effective Date. This Declaration and any amendment hereof shall take effect upon its being filed for record in the office of the County Recorder of Morgan County, Utah.

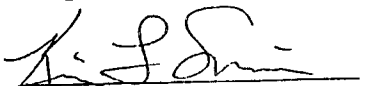
IN WITNESS WHEREOF, Developer has executed this Declaration on the date first above written.



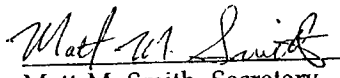
Roger A. Smith, President



Bret T. Smith, Treasurer



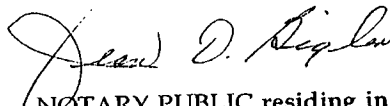
Kirk L. Smith, Vice-President



Matt M. Smith, Secretary

County of Morgan)
 :
State of Utah)

On the 5th day of August, 1996, personally appeared before me, the undersigned Notary Public, in and for said County of Salt Lake in said State of Utah the signers of the forgoing instrument, who duly acknowledged to me that all officers of Mt. DevCo, Inc. signed it freely and voluntarily for the uses and purposes therein mentioned.


NOTARY PUBLIC residing in
Morgan County

My commission expires: Oct 10, 1996

