

PROTECTIVE COVENANTS FOR
"THE PINERY" FILING NO. 6
DOUGLAS COUNTY, COLORADO

KNOW ALL MEN BY THESE PRESENTS: That Terracor, a Utah Corporation, hereinafter referred to as the "Developer" is the owner of the following described property hereinafter referred to as the "property," located in Douglas County, State of Colorado, to-wit:

"The Pinery" Filing No. 6, according to the official plat on file with the Douglas County Recorder, excepting therefrom all tracts designated for business, multiple family, school and similar uses;

and it is the intention of the Developer to include all of the legally described property in said plat, to divide said property into lots and blocks as shown on said plat, and to donate the streets shown on said plat to the public. The easements indicated on said plat are hereby perpetually reserved for public utilities and for any other uses as designated thereon, and no structures other than for such utility or other indicated purposes are to be erected within the lines of said easements.

NOW, THEREFORE, said Developer hereby declares that all of the property described above is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the following limitations, restrictions, covenants and conditions, all of which are declared and agreed to be in furtherance of a plan for the Subdivision, improvement and sale of the property, and are established and agreed upon for the purposes of enhancing and protecting the value, desirability and attractiveness of said property and every lot, part or portion of the said property by the grantees therein named or by their legal representatives, heirs, executors, administrators, successors and assigns, shall constitute their covenant and agreement with the Developer and with each other to accept, hold, use and convey the property described and conveyed in or by such deed or conveyance subject to said restrictions, covenants and conditions as follows, to-wit:

ARTICLE I - GENERAL RESTRICTIONS

1. LAND USE AND BUILDING TYPE: No lot, part or portion of the property shall be used except for residential purposes. No building shall be erected, altered, placed or permitted on any such lot, part or portion other than one detached single-family dwelling not to exceed two (2) stories in height and a private garage for not more than three (3) cars. "Family" is defined to mean persons related by blood or marriage, by legal adoption, or by operation of law.

2. ARCHITECTURAL CONTROL: No building shall be erected, placed or altered on any lot, part or portion of the property until the construction plans and specifications and a site plan showing the location of the structure and the grading of the lot have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of exterior design with existing structures, and as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, placed or altered on any such lot nearer to any street than the minimum building setback line unless similarly approved. Approval shall be as provided in Section 6, Article II of these covenants.

3. BUILDING LOCATION:

(A) No building shall be located on any lot nearer to the front lot line than thirty (30) feet therefrom, measured from the foundation of such building, and, upon lots containing two (2) or more acres in area, no building shall be located more than fifty (50) feet from said front lot line.

(B) No building shall be located on any lot nearer to any side street line than twenty-five (25) feet therefrom, measured from the foundation of such building. No building shall be located on any lot nearer to any interior lot line than ten (10) feet therefrom, measured from the foundation of such building.

(C) No building shall be located on any lot nearer to the rear lot line than thirty (30) feet therefrom, measured from the foundation of such building.

(D) For the purpose of this covenant, eaves, steps, and open porches shall not be considered as a part of a building; provided, however, that this shall not be constructed to permit any portion of a building on a lot to encroach upon another lot.

(E) The provisions of this Section 4 may be altered or amended on an individual basis by approval of The Pinery Architectural Control Committee upon appeal by a lot owner to said Committee; provided, however, that any such alteration or amendment herein shall be subject and subordinate to local County ordinances and requirements.

4. 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 materials 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.

5. 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 to the neighborhood.

6. TEMPORARY AND OTHER STRUCTURES: No structures of a temporary nature, trailer, basement house, tent, shack, garage, barn or other outbuilding shall be used at any time as a residence either temporarily or permanently, nor shall said structures be permitted on said property at any time. No old or secondhand structures shall be moved onto any of said property, it being the intention hereof that all dwellings and other buildings to be erected on said lots, or within said subdivisions, shall be new construction of good quality workmanship and materials.

7. SIGNS: No billboard of any character shall be erected, posted, painted or displayed upon or about any of the property. No sign of any kind shall be displayed to the public view on any lot, part or portion of the property except one professional sign of not more than one (1) square foot, one sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period. The Architectural Control Committee shall approve all signs before they are erected and displayed upon or about any of the property, and said Committee shall have the right to remove or cause the removal of any signs erected and displayed without said proper approval.

8. OIL AND MINING OPERATIONS: No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, part or portion of the property, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any such lot, part or portion of the property. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot, part or portion of the property.

9. **LIVESTOCK, POULTRY, AGRICULTURE:** No animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot, part or portion of the property, except that dogs, cats or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose. Such animals as are permitted shall be strictly controlled and kept pursuant to County ordinances.

10. **GARBAGE AND REFUSE DISPOSAL:** No lot, part or portion of the property shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. Such trash, rubbish, garbage or other waste shall not be kept except in sanitary containers. No rubbish, trash, papers, junk or debris shall be burned upon the property except that trash may be burned inside homes that are properly equipped with inside incinerator units.

11. **WATER SUPPLY:** No individual water supply system shall be used or permitted to be used on any lot, part or portion of the property unless such system is located, constructed and equipped in accordance with the requirements, standards and recommendations of the State Health Department. Approval of such system as installed shall be obtained from such authority.

12. **SEWAGE DISPOSAL:** No individual sewage disposal system shall be permitted on any lot, part or portion of the property unless such system is designed, located and constructed in accordance with the requirements, standards and recommendations of the State Health Department. Approval of such system as installed shall be obtained from such authority.

13. **SIGHT DISTANCE AT INTERSECTIONS:** No structure, fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

14. **OVERNIGHT PARKING:** No vehicle of any kind, including but not limited to, automobiles, trucks, buses, tractors, trailers, camping vehicles, boats, boat trailers, snowmobiles, mobile homes, two- and three-wheeled motor vehicles, or other wheeled vehicles shall be permitted to be parked on any public street within the property between the hours of 2:00 o'clock A.M. and 6:00 o'clock A.M. of any morning.

15. **LANDSCAPING:** Within twelve (12) months of the beginning of construction of any home upon the property, the homeowner must have substantially completed the landscaping of his lot, part or portion of the property. Such landscaping shall include, but not be limited to:

(A) The erection of a front yard light upon said lot, which light shall be of a form and type approved for such use by the Architectural Control Committee and shall be placed upon said lot in accordance with standards established by said Committee; and,

(B) The preparation for and planting of lawn, grass or other appropriate ground cover, appropriate shrubbery, and the planting of at least one (1) tree in the front yard, and, upon lots, parts or portions containing no mature trees at the time of sale, shall include the planting of two (2) trees in the front yard and one (1) tree in either the side or rear yard.

Should any homeowner fail to comply with the provisions of this section, the Architectural Control Committee shall have power to obtain an order from a court of proper jurisdiction requiring specific performance, or alternatively, may complete the landscaping and require the homeowner to pay a reasonable amount for such completion and the amount owing shall constitute a lien on the homeowner's lot, part, portion and home, and shall also be a personal obligation of said homeowner until such payment is made.

No healthy tree shall be removed from any lot, part or portion of the property without approval of the Architectural Control Committee, and upon approval and/or completion of the landscaping plan pursuant to this section, no healthy tree shall be removed, nor shall other major changes be made without approval of the Architectural Control Committee. However, notwithstanding this section, all diseased trees must be removed by the homeowner within one hundred twenty (120) days after the diseased condition is discovered or after receipt of notification demanding the removal thereof issued by the Architectural Control Committee. All diseased and other trees removed from any lot, part or portion shall be replaced by the homeowner by the planting of two (2) trees of the same species upon his lot, part or portion of the property.

All trees planted by the homeowner pursuant to the requirements of this paragraph shall be of a minimum size of two-and-one-half inches (2 1/2") caliper measured at a point one (1) foot above ground level.

16. DWELLING, CONSTRUCTION, AND FENCE RESTRICTIONS: In order to promote a harmonious community development and protect the character of the neighborhood, the following guidelines are set out:

(A) Dwelling style, design, alterations or additions will conform to standards established by the Architectural Control Committee.

(B) Exterior construction materials will be limited to stone, stone veneer, brick or brick veneer, rough sawn or resawn wood siding, stucco or other materials approved for use by the Architectural Control Committee, and shall be in earth tones indigenous to the area. Specifications regarding the color, texture, finish and quality for the above will be posted and made available by the Architectural Control Committee.

(C) All storage or utility buildings, garbage and refuse containers, air conditioning equipment and utility pipes, etc., shall be placed at the rear of the dwelling and located on the site in such a manner as not to be conspicuous from the frontage street.

(D) Any light used to illuminate garages, patios, parking areas or for any other purpose, shall be so arranged as to reflect light away from adjacent residences and away from the vision of passing motorists.

(E) Fences.

(1) Materials: Fences or walls shall be of wood, brick or other materials approved for use by the Architectural Control Committee. No fences or walls of chain link, wire mesh, slump block or unpainted concrete block shall be allowed.

(2) Height: Fences, walls or hedges shall not exceed six (6) feet in height and shall not extend beyond the front yard set back at any point. The rear yard may be fenced with the restriction that no wall, fence or hedge shall be placed nearer than twenty-five (25) feet to the rear lot line. It is the intent of this limitation to provide an undisturbed buffer along the rear lot lines to protect the aesthetic natural beauty of the property.

17. ANTENNAS: No television, radio or other external antennas shall be erected, placed or maintained upon any of the property, or upon any building constructed thereon, without the prior approval of the Architectural Control Committee, and said Committee shall have the right to remove or cause the removal of any antennas erected, placed or maintained without said prior approval.

ARTICLE II - DURATION, ENFORCEMENT, AMENDMENT

1. DURATION OF RESTRICTIONS: The restrictions, covenants and conditions of this Declaration shall run with and bind the land for a term of forty (40) years from the date this Declaration is recorded, after which time said restrictions, covenants and conditions shall be automatically extended for successive periods of twenty (20) years. The restrictions, covenants and conditions of this Declaration may be amended at any time by a recorded instrument signed by not less than seventy-five percent (75%) of the lot owners having an interest in any lot, part or portion of the property subject to this Declaration; provided that thirty (30) day's written notice of any such proposed amendment shall have first been sent to every owner of any lot, part or portion of the property.

2. CONSTRUCTION AND SEVERABILITY: All of said restrictions, covenants and conditions contained in this Declaration shall be construed together. Invalidity of any one of said restrictions, covenants or conditions, or any part thereof, shall in no wise affect the legal force or effect of any of the remaining restrictions, covenants or conditions, or parts thereof.

3. VIOLATION CONSTITUTES NUISANCE: Every act or omission whereby any restriction, covenant or condition in this Declaration set forth is violated in whole or in part, is declared to be and shall constitute a nuisance, and may be abated by the Developer, the owner or owners of any lot, part or portion of the property, their and each of their legal representatives, heirs, successors or assigns, and such remedy shall be deemed cumulative and not exclusive.

4. ENFORCEMENT: Each and all of said restrictions, covenants and conditions is and are for the benefit of the Developer, and of the owner or owners of any lot, part or portion of the property, their and each of their legal representatives, heirs, successors or assigns, and they and each thereof shall inure to the benefit of and pass with each and every lot, part or portion of the property and shall apply to and be binding upon each and every said successor-in-interest of said Developer. Said restrictions, covenants and conditions are and shall be deemed covenants of equitable servitude, and the actual or threatened breach thereof, and the continuance of such breach, may be enjoined, abated, or remedied by appropriate proceedings at law or in equity by the Developer, the owner or owners of any lot, part or portion of the property, their and each of their legal representatives, heirs, successors or assigns; provided however, that no such breach shall affect or impair the lien of any bona fide mortgage or trust deed which shall have been given in good faith and for value, except that any subsequent owner of said lot, part or portion of the property shall be bound and obligated by the said restrictions, covenants and conditions, whether such ownership is obtained by foreclosure, at a trustee's sale or otherwise.

5. RIGHT TO ENFORCE: The provisions contained in this Declaration shall bind and inure to the benefit of and be enforceable by the Developer, by the owner or owners of any lot, part or portion of said property, their and each of their legal representatives, heirs, successors and assigns, and failure by the Developer or any property owner, or their legal representatives, heirs, successors or assigns, to enforce any of said restrictions, covenants or conditions shall in no event be deemed a waiver of the right to do so thereafter.

6. ARCHITECTURAL CONTROL COMMITTEE: The Architectural Control Committee which is vested with the powers described herein shall consist of three (3) or more persons appointed by the Developer. Prior to the commencement of any excavations, construction or remodeling of or addition to any structure theretofore completed, there shall first be filed with the Architectural Control Committee two (2) complete sets of building plans and specifications therefor, together with a site or plot plan indicating the exact part of the building site the improvements will cover, and said work shall not commence unless the Architectural Control Committee shall endorse said plans as being in compliance

with these covenants and with standards established by said Committee pursuant hereto. The Committee shall have the right to refuse to approve any such plans and specifications and shall have the right, in so doing, to take into consideration the suitability of the proposed building, the materials of which it is to be built, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings, and the effect of said building or other structure so planned on the outlook from the adjacent or neighboring property. The Committee shall promulgate and maintain a list of standards for guidance in approving or disapproving plans and specifications pursuant to this section. The second set of said plans shall be filed as a permanent record with the Architectural Control Committee. In the event said Committee fails to approve or disapprove in writing said plans within thirty (30) days after their submission, then said approval shall not be required. The said Architectural Control Committee shall be the same persons for all of the subdivisions within the Developer's development, which is known as The Pinery. The Developer shall have the right to appoint members of the Architectural Control Committee until such time as ninety percent (90%) of the lots in said development have been sold by the Developer. When ninety percent (90%) of all of the lots in said development have been sold by the Developer, a majority of the owners of lots, parts or portions of the property subject to this Declaration shall elect and appoint members of the Architectural Control Committee, which Committee shall thereafter be vested with the powers described herein and shall have jurisdiction over all of the property subject to these restrictions, covenants and conditions.

7. ASSIGNMENT OF POWERS: Any and all rights and powers of the Developer herein contained may be delegated, transferred or assigned. Wherever the term "Developer" is used herein, it includes assigns or successors-in-interest of the Developer.

IN WITNESS WHEREOF, we have hereunto set our hands and seal the 11th day of August, 1972.

TERRACOR, a Utah Corporation

ATTEST:

By: /s/ Ian M. Cumming
Its: President

/s/ Jay R. Bingham
Vice-President

STATE OF UTAH)
 : ss.
County of Salt Lake)

On the 11th day of August, 1972, personally appeared before me Ian M. Cumming and Jay R. Bingham, who being by me duly sworn did say that he, the said Ian M. Cumming is the President and he, the said Jay R. Bingham is the Vice-President of TERRACOR, a Utah Corporation, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors, and Ian M. Cumming and Jay R. Bingham duly acknowledged to me that said corporation executed the same and that the seal affixed is the seal of the corporation.

My Commission Expires:
March 4, 1974

/s/ E. Amy Stevens
Notary Public

Residing at: Salt Lake City, Utah