

20036

DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS OF PARK LANE ESTATES

THIS DECLARATION, made on December 15, 1972 by NOVAD PROPERTIES, INC., A UTAH CORPORATION, HEREINAFTER REFERRED to as DECLARANT.

WITNESSETH:

WHEREAS, NOVAD Properties, Inc. is the owner or the majority stockholder in the PARK LANE ESTATES HOME OWNERS ASSOCIATION holding fee title or Association interest in that certain property being developed as a PLANNED DWELLING GROUP in Orem, County of Utah, State of Utah, which is more particularly described as follows, to wit:

Commencing at the intersection of a fence line with the North boundary of 2000 South Street, Orem, Utah, said point being located East along the Section line 199.57 feet and North 20.05 feet from the Southwest corner of Section 26, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence North 1° 19' West along a fence line 1085.06 feet; thence North 89° 36' East along a fence line 526.00 feet; thence South 1° 16' East along a fence line 1091.00 feet; thence North 89° 45' West along the North boundary of said 2000 South Street 525.50 feet to the point of beginning. Area 13.13 Acres.

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the real property. These easements, covenants, restrictions and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall inure to the benefit and limit of each owner and all future owners thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Park Lane Estates Home Owners Association, a non-profit corporation, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property hereinbefore described as being within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the members of the Association.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the Common Area.

Section 5. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 6. "Owner" shall mean and refer to the recorded owner, whether one of more persons or entities, of a fee simple title to any Lot which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 7. "Declarant" shall mean and refer to Novad Properties, Inc., through its officers, present and future.

Section 8. "Tract Property" shall be considered in two classifications, namely, individual dwelling units and Common Area. Individual dwelling units shall conform to the basic overall plan for the Properties in that all dwellings shall be single family dwellings different in design from each other dwelling within the property.

Section 9. "Capital Improvements" shall include, but is not limited to, streets water systems, sewer system, and water meters.

ARTICLE II

MEMBERSHIP

Every person or entity who is a recorded owner of a fee or undivided fee interest in any lot which is subject by covenants of record to assessment of the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment by the Association. Ownership of such lot shall be the sole qualification of membership.

ARTICLE III

VOTING RIGHTS

The Association shall have two classes of voting membership:

Class A. Class A members shall be entitled to one vote for each lot in which they hold the interest required for membership by Article II. When more than one person holds such interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

Class B. The Class B member shall be the Declarant. The Class B member shall be entitled to three (3) votes for each lot in which he holds the interest required for membership by Article II, provided that as the developer, herein called declarant, he shall make conveyances of lots to individual purchasers in connection with the development of the planned dwelling group, the membership and voting rights of the declarant as to each of said lots transferred shall cease and be converted to Class A membership.

Article IV

PROPERTY RIGHTS

Section 1. Members' Easements of Enjoyment. Every member shall have right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every assessed lot, subject to the following provisions:

(a) the right of the Association to limit the number of guests or members;
(b) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(c) the right of Orem City, a municipal corporation to inspect and perform maintenance on the Common Area and charge back said maintenance to the members, if and only if the Association does not perform maintenance in accordance with the maintenance practices of Orem City in the care of its parks.

(d) the right of the Association in accordance with its Articles and By-laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property, subject to rights of such mortgagee in said properties being subordinate to the rights of the Homeowners hereunder;

(e) the right of the Association to suspend the voting rights and the right to use the recreational facilities by a member for any period during which any assessment against his lot remains unpaid; and for a period not to exceed 180 days for any infraction of its published rules and regulations; and

(f) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by members entitled to cast two-thirds (2/3) of the votes of the Class A membership and two-thirds (2/3) of the votes of the Class B membership, if any, has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every member not less than 15 days nor more than 60 days in advance.

Section 2. Delegation of Use. Any member may delegate, in accordance with the By-laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Title to the Common Area. The declarant has conveyed fee simple title to the Common Area to Park Lane Home Owners Association as part of the recording of Planned Dwelling Group plats.

Section 4. Right of Inspection of Orem City. Orem City shall have the right at any time it sees fit to inspect any part or portion or thing connected in any way with any street, water system, sewer system, and Common Area in the Park Lane Estates.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each lot owned within the properties, hereby covenants, and each owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance is deemed to covenant and agree to pay to the Association, except as hereinafter described: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and cost of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which such assessment is made. Each such assessment, together with such interest, costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the properties and in particular for the improvement and maintenance of the properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Area.

Section 3. Basis and Maximum of Annual Assessments. Until January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment shall be fifteen dollars (\$15.00) per lot. From and after January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment may be increased effective January 1, of each year without a vote of the membership in conformance with the appropriate expenditure record of the previous year adjusted in accordance with expected expenditures for the following year. After consideration of current Maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment at an amount sufficient to fulfill the needs of the Association.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association also may levy in any year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Area,

including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 15 days, nor more than 60 days in advance of the meeting setting forth the purpose of the meeting.

Section 5. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots and may be collected on a monthly basis.

Section 6. Quorum for any Action Authorized under Section 4. At the first meeting called as provided in Section 4 hereof, the presence at the meeting of members or of proxies entitled to cast sixty percent (60%) of all votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Section 4, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceeding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceeding meeting.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all lots on January 1, 1972. The amount of the first annual assessment shall be \$6.00 per lot which shall be due on or before December 31, 1972. The amount of the second annual assessment shall be \$12.00 for the year 1973 and shall be due for each lot on or before June 1, 1973. The Board of Directors shall fix the amount of the annual assessment against each lot at the annual meeting of the Board of Directors for the following year. Written notice of the annual assessment shall be sent to every owner subject thereto. The due date will be on or before June 1 of each year for the annual assessment for that year. The Association shall upon demand at any time furnish a certificate in writing signed by an officer of the association setting forth whether the assessments on a specified lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Orem City's Enforcement of Maintenance. In consideration of the approval of the Park Lane Estates by Orem City Corporation, the declarant hereby obligates the lands that are located within the Park Lane Estates as follows:

In the event the Association or its agents do not maintain the streets, or

water system, or sewer system then in that event, Orem City may provide said maintenance, and shall have the right each time there is a failure to so maintain, to file a lien on the lots in Park Lane Estates at a uniform amount per lot, and if said lien is not paid within 30 days after the date of filing of the lien, then Orem City may foreclose the same.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due will be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of seven percent (7%) per annum, and the Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees for any such action shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessments provided herein by non-use of the Common Area of abandonment of his lot.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot which is subject to any mortgage, pursuant to a decree of foreclosure under such mortgage or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to payments thereof which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 11. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein: (a) all properties dedicated to and accepted by a local public authority; and (b) the Common Area. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VI

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the properties, nor shall any exterior addition to or change or 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 harmony of external design and location in relation to surrounding structures and topography by an architectural committee composed of the three (3) members of the Board of Directors who are also members

of the Board of Directors of the Declarant. In the event said committee, fails to approve or disapprove such plans and design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article shall be deemed to have been fully complied with. After the initial development stage of the properties is complete, the Board of Directors may appoint any three people to serve as the architectural committee. The members of such committee shall not be entitled to any compensation for services performed pursuant to this covenant.

New Building and Procedure. To maintain a degree of protection to the investment which home owners in this development may make, homes of superior design are requisite. No two homes in the development may resemble each other in external appearance or overall design. The drawings which must be submitted to the committee for approval shall include as a minimum the following:

1. Plot plan to scale of the entire site with buildings and other improvements located with dimensions given to all property lines.
2. Floor plans of each floor level to scale.
3. Elevations to scale of all sides of the house showing the elevation of the floors above or below a designated point on the street.
4. Outline specifications giving a description of all materials to be used on the exterior of the building.

An owner whose plans are rejected shall meet with the committee at the committee's invitation where he shall be informed of the nature of the cause of action so that he can take steps toward obtaining approval of his plans.

Finally, the committee has the authority to judge buildings, materials, fences, plantings, etc., on whatever basis available to it with the aim of preserving what it feels are the best interests of the property owners represented. These shall include aesthetics, reasonable protection of view, permanence of materials, etc. All decisions of the committee shall be final.

ARTICLE VII

EXTERIOR MAINTENANCE

In the event an owner of any lot on the properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain, and restore the lot and the exterior of the buildings, and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become a part of the assessment of which such lot is subject.

ARTICLE VIII

MISCELLANEOUS

No building shall be located nearer than twenty (20) feet to an adjoining building except that a garage or carport will be allowed within fifteen (15) feet of another building.

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat, all power and telephone lines must be run underground.

No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently.

No garage of other building whatsoever shall be erected on any lot until a dwelling building shall be erected thereon.

No fowl, animals or other creatures other than the usual and common household pets in reasonable numbers shall be kept on any lot nor within any building on said properties.

No trash, ashes or any other refuse may be dumped or thrown on any lot or Common Area on the properties. All homes must subscribe to Orem City garbage disposal.

Any tenant renting within Park Lane Estates who engages in noxious or offensive activity may be expelled on thirty (30) days notice upon majority vote of the Board of Directors of the Association. This restriction shall take precedence over leases and rental agreements.

No signs, billboards or advertising structures may be erected or displayed on any of the lots hereinbefore described, or parts or portions thereof, except a single sign not more than 2 x 3 feet in size, advertising a specific unit for sale or house for rent, may be displayed on the premises affected. Also, during the period of development, the owners shall be given the right to erect a sign or signs larger than herein specified on any or all lots.

ARTICLE IX

GENERAL PROVISIONS

Section 1. Enforcement. The Association or any 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 to either prevent violations, or to recover damages for such violations. Failure by the Association or by an owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgement or court order shall in no way effect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the owner of any lot, subject to this Declaration, their respective legal representatives, heirs, successors, assigns, for a term of thirty (30) years from the date this declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this Declaration may be amended during the first thirty (30) years by an instrument signed by not less than eighty (80%) percent of the lot owners and thereafter by an instrument signed by not less than seventy-five percent (75%) of the lot owners. Any amendment must be properly recorded.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set his hand this 15th day of December, 1972.

NOVAD PROPERTIES, INC.

BY: Clyde R. Naylor
Clyde R. Naylor, President

Ross G. Viehweg
Ross G. Viehweg, Secretary



ATTEST:

PARK LANE ESTATES HOME OWNERS ASSOCIATION

BY: Clyde R. Naylor
Clyde R. Naylor, President

Geraldine Christensen
Geraldine Christensen, Secretary



STATE OF UTAH,)
) ss.
COUNTY OF UTAH)

On the 15th day of December, 1972, A.D. personally appeared before me, [Signature], Naylor, Ross G. Viehweg, and Geraldine Christensen, who being by me duly sworn did say, each for theirself, that they are the Corporation Officers above designated and that the foregoing instrument was signed in behalf of the Corporation that they represent.

[Signature]
Notary Public

My commission expires MARCH 1, 1972

RECORDED AT THE REQUEST OF SECURITY TITLE & ASS. CO. 20036
72 DEC 20 PM 1:41
NINA D. FIELD COUNTY RECORDER
SECURITY TITLE & ASS. CO.
ABS. IND. R. 1
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