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DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF GARDEN PARK EAST PLANNED UNIT DEVELOPMENT

THIS DECLARATION, made on the date hereinafter set forth by Orem Valley Development, Inc., a Utah Corporation, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Orem, County of Utah, State of Utah, which is more particularly described as:

Beginning North 190.65 feet and West 395.14 feet from the South one-quarter corner of Section 11, Township 6 South, Range 2 East, Salt Lake Base and Meridian; said point also being located East 264.00 feet and North 155.26 feet from the Southwest corner of Lot 31, Knight Subdivision, Orem, Utah; thence North 89°52'54" West 66.00 feet; thence North 0°16'13" West 9.62 feet; thence North 89°52'54" West 67.85 feet; thence South 0°40'15" East 38.82 feet; thence North 89°52'54" West 66.00 feet; thence North 0°40'15" West 35.88 feet; thence South 89°18'50" West 153.32 feet; thence North 5°37'09" West 238.94 feet; thence North 24°12'04" West 278.66 feet; thence North 88°58'22" East 222.52 feet; thence South 88°32'43" East 203.33 feet; thence South 87°58'27" East 122.47 feet; thence South 1°03'18" East 462.77 feet; thence South 89°48'13" West 66.00 feet; thence South 0°16'13" East 28.80 feet to the point of beginning.

NOW, THEREFORE, the Declarant hereby declares that the real property described herein is and shall be held, conveyed, hypothecated or encumbered, sold, leased, rented, used, occupied and improved subject to the covenants, restrictions, uses, limitations, obligations, easements, equitable servitudes, charges and liens (hereinafter sometimes referred to as "covenants and restrictions") hereinafter set forth, all of which are declared and agreed to be in aid of a plan for improvement of said property, and which shall run with the real property and be binding on all parties having any right, title or interest in the described Properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

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PAGE 1439 OF 512

ARTICLE I

DEFINITIONS

When used in this Declaration, the following terms shall have the meaning indicated:

Section 1. "Association" shall mean and refer to OREM VALLEY HOME-OWNERS ASSOCIATION, INC., its successors and assigns.

Section 2. "Owner" or "Owners" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract buyers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, which is subject to, or any such additional property as may hereafter become subject to this Declaration or any amendments or additions to this Declaration.

Section 4. "Common Area" shall mean all real property which is a part of the Properties and which is now or hereafter acquired by the Association for the benefit, use and/or enjoyment of its Members.

Section 5. "Lot" or "Lots" 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 6. "Declarant" shall mean and refer to OREM VALLEY DEVELOPMENT, INC., its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Member" or "Members" shall mean and refer to those persons entitled to membership in the association as provided in the Articles of Incorporation and By-Laws of said Association.

Section 8. "Dwelling" or "Dwellings" shall mean any struc-

1 ture, home, townhouse, apartment, units, condominium, and any  
2 building existing upon any Lot, or upon the Properties.

3 ARTICLE II

4 PROPERTY RIGHTS

5 Section 1. Member's Right of Enjoyment. Every Member  
6 shall have a right of, and an easement of an enjoyment in and to  
7 the Common Area, and any improvements upon the Common Area, and  
8 shall have the right of enjoyment of the community facilities  
9 and recreational facilities and such right of, and easement of  
10 enjoyment shall be appurtenant to and shall pass with the title  
11 to every Lot subject to the following:

12 (a) the right of the Association, with the consent of  
13 two-thirds (2/3) of each class of the then Members of the  
14 Association, to levy reasonable admission and other fees for the  
15 use of any recreational facilities situated upon the Properties  
16 by the Members of the Association and their families and/or  
17 guests; and

18 (b) the right of the Association to suspend the  
19 voting rights and right to use the recreational facilities by an  
20 Owner for any period during which any assessment against his Lot  
21 remains unpaid; and for a period not to exceed sixty (60) days  
22 for any infraction of its published rules and regulations; and

23 (c) the right of the Association to dedicate or  
24 transfer all or any part of the Common Area to any public agency,  
25 authority, or utility for such purposes and subject to such  
26 conditions as may be agreed to by the Members. No such dedica-  
27 tion or transfer shall be effective unless an instrument signed  
28 by two-thirds (2/3) of each class of Members agreeing to such  
29 dedication or transfer has been recorded. In addition any such  
30 dedication or transfer is subject to Article VIII, Section 2(1);  
31 and

32 (d) the right of the Declarant, or of the Association,

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1 in accordance with its Articles of Incorporation and By-laws, to  
2 borrow money for the purpose of improving the Common Area and in  
3 aid thereof to mortgage said Properties. In the event of a  
4 default upon such mortgage the mortgagee's rights thereunder  
5 shall be limited to a right, after taking possession of such  
6 property, to charge admission and other fees as a condition to  
7 continued enjoyment by the Members and, if necessary, to open  
8 the enjoyment of such Properties to a wider public until the  
9 mortgage debt is satisfied whereupon the possession of such  
10 property shall be returned to the Association and all rights of  
11 Members shall be fully restored, and;

12 (e) the right of the Association to take such steps  
13 as are reasonably necessary to protect the above described pro-  
14 perty against foreclosure.

15 Section 2. Delegation of Use. Any Owner may delegate, in  
16 accordance with the By-laws of the Association, his right of  
17 enjoyment to the Common Area and facilities to the members of  
18 his immediate family, or contract purchasers who reside on the  
19 property.

20 Section 3. Easements. The Association shall have the  
21 right to act by and through its Board of Trustees, to grant  
22 rights-of-way and/or easements for any public utility purpose to  
23 any municipal agency, public utility or to the Declarant for the  
24 purpose of the installation and/or construction and/or mainten-  
25 ance of public utilities for the benefit of "Garden Park East  
26 Planned Unit Development," provided that no such rights-of-way  
27 shall be permanently inconsistent with the enjoyment of the  
28 Common Area, community facilities, and/or the recreational  
29 facilities by the Members of the Association.

30 Section 4. Maintenance of Common Areas and Facilities.  
31 The Association shall care for and maintain the Common Areas  
32 and facilities thereon. The failure of the Association to care

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1 for and maintain the Common Areas and facilities thereon in a  
2 reasonable manner shall be grounds for an action by any  
3 Member or Owner to force the Association to provide such care  
4 or maintenance.

5 ARTICLE III

6 MEMBERSHIP AND VOTING RIGHTS

7 Section 1. Membership. Every Owner of a Lot which is  
8 subject to this Declaration shall be a Member of the Association  
9 as provided in the Articles of Incorporation and By-laws of the  
10 Association. Membership shall be appurtenant to and may not be  
11 separated from ownership of any Lot to which it appertains.

12 Section 2. Voting Rights. The Association shall have two  
13 classes of voting membership:

14 Class A. Class "A" Members shall be all Owners with  
15 the exception of the Declarant and shall be entitled to one vote  
16 for each Lot owned. When more than one person holds an interest  
17 in any Lot, all such persons shall be Members. The vote for  
18 such Lot shall be exercised as they among themselves determine,  
19 but in no event shall more than one vote be cast with respect to  
20 any Lot.

21 Class B. The Class "B" Member(s) shall be the Declar-  
22 ant and shall be entitled to four (4) votes for each Lot owned.  
23 The Class "B" membership shall cease and be converted to Class  
24 "A" membership on the happening of either of the following  
25 events, whichever occurs earlier:

26 (a) when the total votes outstanding in the Class "A"  
27 membership equal the total votes outstanding in the Class "B"  
28 membership, or

29 (b) on January 1, 1980.

30 ARTICLE IV

31 COVENANT FOR MAINTENANCE ASSESSMENTS

32 Section 1. Creation of the Lien and Personal Obligation

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1 of Assessments. The Declarant, for each Lot owned by him within  
2 the Properties, hereby covenants, and each owner of any Lot by  
3 acceptance of a deed therefor, whether or not it shall be so  
4 expressed in such deed, is deemed to covenant and agree to pay  
5 to the Association: (1) annual assessments or charges, and (2)  
6 special assessments for capital improvement, such assessments to  
7 be established and collected as hereinafter provided. The  
8 annual and special assessments, together with interest thereon,  
9 costs of collection thereof, and reasonable attorney's fees,  
10 shall be a charge on the land and shall be a continuing lien  
11 upon the Lots against which each such assessment is made. Each  
12 such assessment, together with interest, costs, and reasonable  
13 attorney's fees, shall also be the personal obligation of the  
14 person who was the Owner of such Lots or his heirs, devisees or  
15 personal representatives at the time when the assessment fell  
16 due. The personal obligation for delinquent assessments shall  
17 not pass to the Owner's successors in title unless expressly  
18 assumed by them. Any mortgagee who comes into possession of  
19 the Properties of any part thereof or any Lot or Lots pursuant  
20 to the remedies provided in the mortgage, foreclosure of the  
21 mortgage, or deed (or assignment) in lieu of foreclosure shall  
22 take the Lots or Properties free of any claims for unpaid assess-  
23 ments or charges against the mortgaged Lots or Properties which  
24 accrue prior to the time such holder comes into possession of  
25 the Lots or Properties.

26 Section 2. Purpose of Assessments. The assessments levied  
27 by the Association shall be used exclusively to promote the re-  
28 creation, health, safety, and welfare of the residents in the  
29 Properties and for the improvement and maintenance of the Common  
30 Area, and of the Properties, Lots and Dwellings situated upon  
31 the Lots.

32 Section 3. Maximum Annual Assessment. Until January 1 of

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1 the year immediately following the conveyance of the first Lot  
2 to an Owner, the maximum annual assessment shall be THREE HUNDRED  
3 SIXTY AND NO/100 DOLLARS (\$360.00) per Lot.

4 (a) From and after January 1 of the year immediately  
5 following the conveyance of the first Lot to an Owner, the  
6 maximum annual assessment may be increased each year not more  
7 than ten percent (10%) above the maximum assessment for the  
8 previous year without a vote of the membership.

9 (b) From and after January 1 of the year immediately  
10 following the conveyance of the first Lot to an Owner, the maxi-  
11 mum annual assessment may be increased above ten percent (10%)  
12 by a vote of two-thirds (2/3) of each class of members who are  
13 voting in person or by proxy, at a meeting duly called for this  
14 purpose.

15 (c) The Board of Trustees may fix the annual assess-  
16 ment at an amount not in excess of the maximum.

17 Section 4. Special Assessments for Capital Improvements.

18 In addition to the annual assessments authorized above, the  
19 Association may levy, in any assessment year, a special assess-  
20 ment applicable to that year only for the purpose of defraying,  
21 in whole or in part, the cost of any construction, reconstruc-  
22 tion, repair or replacement of a capital improvement upon the  
23 Common Area, including fixtures and personal property related  
24 thereto, provided that any such assessment shall have the assent  
25 of two-thirds (2/3) of the votes of each class of Members who  
26 are voting in person or by proxy at a meeting duly called for  
27 this purpose; provided, however, an adequate reserve fund for  
28 replacement of the Common Area must be established and must be  
29 funded by regular monthly payments rather than by special  
30 assessments.

31 Section 5. Notice and Quorum for any Action Authorized  
32 Under Sections 3 and 4. Written notice of any meeting called

1 for the purpose of taking any action authorized under Section 3  
2 or 4 shall be sent to all Members not less than ten (10) days  
3 nor more than thirty (30) days in advance of the meeting. At  
4 the first such meeting called, the presence of Members or of  
5 proxies entitled to cast sixty percent (60%) of all the votes of  
6 each class of membership shall constitute a quorum. If the  
7 required quorum is not present, another meeting may be called  
8 subject to the same notice requirement, and the required quorum  
9 at the subsequent meeting shall be one-half (1/2) of the required  
10 quorum at the preceding meeting. No such subsequent meeting  
11 shall be held more than sixty (60) days following the preceding  
12 meeting.

13 Section 6. Uniform Rate of Assessment. Both annual and  
14 special assessments must be fixed at a uniform rate for all Lots  
15 and may be collected on a monthly basis.

16 Section 7. Commencement of Annual Assessments. The annual  
17 maintenance assessment for each Class A membership shall com-  
18 mence on a date a deed for the Lot to which such membership is  
19 appurtenant is delivered by the Declarant or a prior Owner to  
20 the Member. The first monthly installment of each such annual  
21 assessment shall be made for the balance of the month during  
22 which a deed for the Lot is delivered to the Member and shall  
23 become due and payable and a lien on the date a deed for the Lot  
24 is delivered to the Member. Except as hereinelsewhere provided,  
25 the monthly installments of each such annual assessment for any  
26 Lot for any month after the first month shall become due and  
27 payable and a lien on the first day of each successive month.

28 Section 8. Assessment of Declarant. Anything in this  
29 Declaration to the contrary notwithstanding, no Lot held by the  
30 Declarant shall be subject to assessment by the Association  
31 until the first to happen of the following events:

32 (a) with respect to any Lot held by the Declarant,



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1 ninety (90) days following the issuance by the appropriate  
2 agency of Utah County, Utah, of a Certificate of Occupancy, or  
3 the like, for a Dwelling constructed upon such Lot; or

4 (b) with respect to any Lots then held by the Declar-  
5 ant, ninety (90) days following the lapse of all the Class B  
6 memberships.

7 Section 9. Effect of Nonpayment of Assessments: Remedies  
8 of the Association. Any assessment not paid within thirty (30)  
9 days after the due date shall bear interest from the due date at  
10 the rate of ten percent (10%) per annum. Delinquent assessments  
11 together with interest thereon as provided above and costs of  
12 collection of the delinquent assessments and interest thereon,  
13 and attorney's fees for the collection thereof, shall become a  
14 continuing lien upon the Lot as provided in Article IV, Section  
15 1 herein. The Association may bring an action at law against  
16 the Owner personally obligated to pay the assessment, or fore-  
17 close the lien against the Lot. No Owner may waive or otherwise  
18 escape liability for the assessments provided for herein by non-  
19 use of the Common Area or abandonment of his Lot.

20 Section 10. Acceleration of Installments. Upon default in  
21 the payment of any one or more monthly installments of any  
22 assessment levied pursuant to this Declaration, or any other  
23 installment thereof, the entire balance of said assessment may  
24 be accelerated at the option of the Board of Trustees of the  
25 Association and be declared due and payable in full.

26 Section 11. Subordination of the Lien to Mortgages. The  
27 lien of the assessments provided for herein shall be subordinate  
28 to the lien of any first mortgagee. Sale or transfer of any Lot  
29 shall not affect the assessment lien. However, the sale or  
30 transfer of any Lot pursuant to mortgage foreclosure or any  
31 proceeding in lieu thereof, shall extinguish the lien of such  
32 assessments as to payments which become due prior to such trans-

BOOK 1439 PAGE 520

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1 fer. No sale or transfer shall relieve such Lot from liability  
2 for any assessments thereafter becoming due or from the lien  
3 thereof.

4 Section 12. Notice of Assessment. The Association shall  
5 give written notice to each Member of any and all assessments  
6 levied against such Member at least thirty (30) days prior to  
7 the date said assessment shall become due and owing.

8 ARTICLE V

9 ARCHITECTURAL CONTROL

10 No Dwelling, fence, wall or other structure shall be com-  
11 menced, erected or maintained upon the Properties, nor shall any  
12 exterior addition to or change or alteration therein be made  
13 until the plans and specifications showing the nature, kind,  
14 shape, height, materials, and location of the same shall have  
15 been submitted to and approved in writing as to harmony of  
16 external design and location in relation to surrounding struc-  
17 tures and topography by an Architectural Control Committee  
18 composed of the Board of Trustees of the Association, or composed  
19 of three (3) or more representatives appointed by the Board. In  
20 the event said Board, or its designated committee, fails to  
21 approve or disapprove such design and location within thirty  
22 (30) days after said plans and specifications have been submitted  
23 to it, approval will not be required and this Article will be  
24 deemed to have been fully complied with.

25 ARTICLE VI

26 GENERAL PROVISIONS

27 Section 1. Enforcement. The Association, or any Owner,  
28 shall have the right to enforce, by any proceeding at law or in  
29 equity, all restrictions, conditions, covenants, reservations,  
30 liens and charges now or hereafter imposed by the provisions of  
31 this Declaration. Failure by the Association or by any Owner to  
32 enforce any covenant or restriction herein contained shall in no

1 event be deemed a waiver of the right to do so thereafter.

2 Section 2. Severability. Invalidation of any one of these  
3 covenants or restrictions by judgment or court order shall in no  
4 wise affect any other provisions which shall remain in full  
5 force and effect.

6 Section 3. Amendment. The covenants and restrictions of  
7 this Declaration shall run with and bind the land, for a term of  
8 twenty (20) years from the date this Declaration is recorded,  
9 after which time they shall be automatically extended for succes-  
10 sive periods of ten (10) years. This Declaration may be amended  
11 by an instrument signed by not less than two-thirds (2/3) of the  
12 Lot Owners. Any amendment shall be recorded in the office of  
13 the Utah County Recorder by the Association.

14 Section 4. Annexation. Additional property and common  
15 area may be annexed to the Properties with the consent of two-  
16 thirds (2/3) of each class of Members.

17 Section 5. Ownership of Common Area. Subject to the  
18 limitations contained in this Declaration, the Owners shall have  
19 the non-exclusive right to use and enjoy the Common Area. Each  
20 Owner shall also have the exclusive right to the full use of the  
21 carports, patio and storage area adjacent to his Lot. The  
22 Association shall have the right to limit the number of guests  
23 of Members which may use the Common Area or facilities upon the  
24 Common Area.

25 Section 6. Residential Use. All Dwellings shall be used  
26 for private residential purposes exclusively, and the Owner's  
27 use of each such Lot shall not endanger the health or disturb  
28 the reasonable enjoyment of any other Owner or resident. The  
29 term "residential" as used herein, shall be held and construed  
30 to exclude hospitals, clinics, mobile homes, hotels, motels,  
31 boarding houses, commercial and professional uses, including  
32 personal service shops, whether in the townhomes, or otherwise,

1 and all such uses are expressly prohibited. Nothing contained  
2 in this Article, or elsewhere in this Declaration, shall be con-  
3 strued to prohibit the Declarant from the use of any Lots or  
4 Dwellings for promotional or display purposes or as "Model  
5 Homes" or the like.

6 Section 7. Party Walls. Each wall which is built as part  
7 of the original construction of the Dwellings upon the Properties  
8 and placed on the dividing line between Lots or Dwellings shall  
9 constitute a party wall, and to the extent not inconsistent with  
10 the provisions of the Section, the general rules of law regard-  
11 ing party walls and of liability for property damage due to  
12 negligent or willful acts or omissions shall apply thereto.

13 (a) Repair and Maintenance. The cost of reasonable  
14 repair and maintenance of a party wall shall be shared by the  
15 Owners who make use of the wall in proportion to such use.

16 (b) Destruction by Fire or other Casualty. If a  
17 party wall is destroyed or damaged by fire or other casualty,  
18 any Owner who has used the wall may restore it, and if other  
19 Owners thereafter make use of the wall, they shall contribute to  
20 the cost of restoration thereof in proportion to such use with-  
21 out prejudice, subject however, to the right of any such Owner  
22 to call for a larger contribution from other Owners under any  
23 rule of law regarding liability for negligent or willful acts or  
24 omissions.

25 (c) Weatherproofing. Notwithstanding any other pro-  
26 vision of this Section, any Owner who by his negligent or will-  
27 ful act causes the party wall to be exposed to the elements  
28 shall bear the whole cost of furnishing the necessary protection  
29 against such elements.

30 (d) Right to Contribution Runs with Land. The right  
31 of any Owner to contribution from any other Owner under this  
32 Section shall be appurtenant to the land and shall pass to the

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1 Owner's successors in title.

2 (e) Arbitration. In the event of any dispute con-  
3 cerning a party wall, or resulting from the provisions of this  
4 Section, each party to the dispute shall choose one arbitrator,  
5 and such arbitrators shall choose one additional arbitrator, and  
6 the decision made by a majority of all arbitrators shall be  
7 binding upon all of the parties to the dispute. In the event  
8 any party to any such dispute refuses to appoint an arbitrator  
9 within ten (10) days after written request for the appointment  
10 of the same, then the Board of Trustees of the Association shall  
11 select an arbitrator on behalf of such party.

12 (f) Encroachments. If any portion of a party wall  
13 shall encroach upon any adjoining Lot, or upon the Common Area  
14 or community facilities, by reason of settlement or shifting of  
15 any Dwelling; or the repair or reconstruction of any Dwelling,  
16 or otherwise, a valid easement for the encroachment and for the  
17 maintenance of the same as long as the Dwelling stands, shall  
18 exist.

19 (g) Easements. Each Lot and Dwelling shall be sub-  
20 ject to easement to the benefit of the Owners of the adjoining  
21 and abutting Lots and Dwellings for the unobstructed and unin-  
22 terrupted use of any and all pipes, ducts, flues, chutes, con-  
23 duits, cables and wire outlets and utility lines of any kind, to  
24 easements for lateral support of adjoining and abutting dwellings,  
25 and to easements for the leadwalks, sidewalks and patios serving  
26 adjoining and abutting Dwellings.

27 Section 8. Reconstruction Following Fire or Other Casualty.  
28 In the event any Dwelling is partially or totally destroyed by  
29 fire or other casualty, then the Owner of the same shall promptly  
30 reconstruct such Dwelling at his own expense in accordance with  
31 the original plans and specifications for the same (or as the  
32 same may be modified with the written consent of the Architec-

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1 tural Control Committee), and any failure promptly so to do  
2 shall be considered a violation of the provisions of this Article.

3 Section 9. Enforcement - Right to Remove or Correct Viola-  
4 tions. In the event any violation or attempted violation of any  
5 of the covenants or restrictions contained in this Article shall  
6 occur or be maintained upon any Lot, or in the event of any  
7 other conduct in violation of any of the provisions and require-  
8 ments of this Article, then the same shall be considered to have  
9 been undertaken in violation of this Article, and without the  
10 approval of the Architectural Control Committee required herein,  
11 and upon written notice from Architectural Control Committee,  
12 such violation shall be promptly removed or abated. In the  
13 event the same is not removed, or the violation is not otherwise  
14 terminated or abated, within fifteen (15) days after notice of  
15 such violation is delivered to the Owner of the Lot upon which  
16 such violation exists, or to the Member responsible for such  
17 violation if the same shall be committed or attempted on pre-  
18 mises other than the Lot owned by such Member, then the Asso-  
19 ciation shall have the right, through its agents and employees  
20 (but only after a resolution of the Architectural Control Com-  
21 mittee) to enter upon such Lot and to take such steps as may be  
22 necessary to remove or otherwise terminate or abate such viola-  
23 tion and the cost thereof may be assessed against the Lot upon  
24 which such violation occurred and, when so assessed, a statement  
25 for the amount thereof shall be rendered to the Owner of said  
26 Lot at which time the assessment shall become due and payable  
27 and a continuing lien upon such Lot, and a binding personal  
28 obligation of the Owner of such Lot, in all respects (and sub-  
29 ject to the same limitations) as provided in Article IV of this  
30 Declaration. The Association shall have the further right,  
31 through its agents, employees or committees, to enter upon and  
32 inspect any Lot at any reasonable time for the purpose of ascer-

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1 taining whether any violation of the provisions of this Article  
2 or any of the other provisions or requirements of this Declara-  
3 tion, exist on such Lot; and neither the Association nor any  
4 such agent or employee shall be deemed to have committed a  
5 trespass or other wrongful act by reason of such entry of  
6 inspection.

7 Section 10. Taxes, Assessments and Charges to Common Areas.

8 All real estate taxes and other taxes, assessments and charges  
9 levied against the Common Area by any public body and any liens  
10 which may result therefrom shall not be leviabale against the  
11 Lots or Dwellings or Owners and such taxes, assessments and  
12 charges levied against the Common Area shall be enforceable only  
13 against the Association and shall become liens only upon the  
14 Common Areas.

15 ARTICLE VII

16 EASEMENTS FOR UTILITIES AND RELATED PURPOSES

17 The Association is authorized and empowered to grant (and  
18 shall from time to time grant) such licenses, easements and/or  
19 rights-of-way over the Common Area for sewer lines, water lines,  
20 electrical cables, telephone cables, gas lines, storm drains,  
21 underground conduits and/or other purposes related to the pro-  
22 visions of public utilities as may be considered necessary and  
23 appropriate by the Board of Trustees of the Association for the  
24 orderly maintenance, preservation and enjoyment of the Common  
25 Area and community facilities and/or for the preservation of the  
26 health, safety, convenience and/or welfare of the Owners and  
27 Members.

28 Any and all streets, walkways, roadways, sidewalks and/or  
29 the like, which are owned by the Association shall be subject to  
30 non-exclusive easements for ingress and regress for the benefit  
31 of all Members of the Association, the Declarant, their respec-  
32 tive heirs, personal representatives and assigns and all other

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1 persons or other parties claiming under any of them.

2 There is hereby created a non-exclusive easement upon,  
3 across, over and under all of the Properties for ingress and  
4 egress, installation, replacing, repairing and maintaining  
5 utilities, including, but not limited to, water, sewer, tele-  
6 phone, electricity, gas and television cables. By virtue of  
7 this easement, it shall be expressly permissible for utility  
8 companies to affix and maintain pipes, wires, conduits, or other  
9 service liens on, above, across and under the roofs and exterior  
10 walls of the Dwellings. Notwithstanding anything to the con-  
11 trary contained in this Section, no sewer, electrical lines,  
12 water lines or other utilities may be installed and/or relocated  
13 upon the Properties until approved by the Board of Trustees of  
14 the Association. In the event that any utility company fur-  
15 nishing a service covered by the general easement hereinabove  
16 provided requests a specific easement by separate recordable  
17 instrument, the Association shall have the right to grant such  
18 easement upon said property without conflicting with the terms  
19 thereof.

20 ARTICLE VIII

21 MORTGAGEE'S RIGHTS AND  
22 COVENANTS WITH MORTGAGEES

23 Section 1. A first mortgagee at his request is entitled to  
24 written notice from the Association of any default by a Owner-  
25 mortgagor of the performance of any obligations imposed upon the  
26 Owner-mortgagor by this Declaration, and the Articles of Incor-  
27 poration and By-laws of the Association, when said default has  
28 not been cured within thirty (30) days after default.

29 Section 2. Unless seventy-five percent (75%) of the first  
30 mortgagees of individual Lots have given their prior written  
31 approval, the Association shall not:

32 (1) by act or omission to act seek to abandon, parta-



1 tion, subdivide, encumber, sell or transfer Common Areas or  
2 any part thereof or any improvements thereon;

3 (2) change the method of determining the obligations,  
4 assessments, dues or other charges which may be levied upon a  
5 Lot or against an Owner or Member.

6 (3) waive or abandon any scheme of regulations, or  
7 enforcement thereof, pertaining to the architectural design or  
8 the exterior appearance of Dwellings, the exterior maintenance  
9 of party walls or common fences and driveways, or the upkeep of  
10 lawns and grounds on the Properties.

11 (4) fail to maintain Fire and Extended Coverage  
12 Insurance in an amount not less than one hundred percent (100%)  
13 of the current replacement cost of the Common Area and improve-  
14 ments and facilities thereon; such insurance should name as  
15 the insured the Association for the benefit of the Owners.

16 (5) use hazard insurance proceeds for losses to any  
17 Common Area and improvements and facilities thereon for other  
18 than the repair, replacement, or reconstruction of such Common  
19 Area, and the improvements thereon.

20 Section 3. First mortgagees of the Properties or any part  
21 thereof, including Common Areas, Lots and Dwellings, shall have  
22 the right to examine the books and records of the Association  
23 upon demand, at any reasonable time and place.

24 Section 4. First mortgagees of Lots or Dwellings may,  
25 jointly or singly pay taxes or other charges which are in default  
26 and which may or have become a charge against any Common Area  
27 and may pay overdue premiums on hazard insurance policies, or  
28 secure new hazard insurance coverage on the lapse of a policy,  
29 for such Common Area and first mortgagee making such payments  
30 shall be owed immediate reimbursement, therefore, from the  
31 Association.

32 Section 5. No provision of this Declaration or of the

1 Articles of Incorporation of the Association or the By-laws of  
2 the Association shall give an Owner or any other person priority  
3 over any rights of first mortgagees of Lots or Dwellings pursuant  
4 to their mortgagees in the case of distribution to Owners of  
5 insurance proceeds of condemnation awards for losses to or a  
6 taking of Common Areas.

7 Section 6. Insurance coverage in the following kinds and  
8 amounts must be maintained by an Owner of any Lot or Dwelling  
9 pledged as security for a mortgage:

10 (1) The scope of coverage shall be equal to or  
11 greater than Fire and Extended Coverage and shall be at least  
12 equal to that customary in the geographical area in which the  
13 mortgaged premises are located. The policy shall provide as a  
14 minimum Fire and Extended Coverage insurance on a replacement  
15 cost basis in an amount not less than that necessary to comply  
16 with any co-insurance percentage stipulated in the policy, but  
17 not less than eighty percent (80%) of the insurable value (based  
18 upon replacement cost). Except for insurance under the National  
19 Flood Insurance Act of 1968 and for deductibles as permitted  
20 below, the amount of coverage shall be sufficient so that in  
21 the event of any damage or loss to the mortgaged premises of a  
22 type covered by the insurance, the insurance proceeds shall  
23 provide at least the lesser of: (i) compensation to the full  
24 amount of damage or loss; or (ii) compensation to the first  
25 mortgagee under the mortgage equal to the full amount of the  
26 unpaid balance of the mortgage. All buildings valued at \$1,000  
27 and over must be insured.

28 Section 7. The Association must have Fidelity coverage  
29 against dishonest acts on the parts of directors, managers,  
30 trustees, employees or volunteers responsible for handling funds  
31 collected and held for the benefit of the owners. The Fidelity  
32 Bond or Insurance must name the Association as the name insured

HOWARD, LEWIS & PETERSEN  
ATTORNEYS AND COUNSELORS AT LAW  
120 EAST 300 NORTH STREET  
PROVO, UTAH 84601

1 and shall be written in an amount sufficient to provide protec-  
2 tion, which is no event less than 1-1/2 times the insured  
3 estimated annual operating expenses and reserves. In connection  
4 with such coverage, any appropriate endorsement to the policy  
5 to cover any persons who serve without compensation shall be  
6 added if the policy would not otherwise cover volunteers.

7 Section 8. The Association must have a comprehensive  
8 policy of public liability insurance covering all of the Common  
9 Areas. Such insurance shall contain a "severability of interest"  
10 endorsement which shall preclude the insurer from denying the  
11 claim of an Owner because of negligent acts of the Association  
12 or other Owners.

13 IN WITNESS WHEREOF, the undersigned, being the Declarant  
14 herein, has hereunto set its hand and seal this 21<sup>st</sup> day of  
15 October, 1975.

OREM VALLEY DEVELOPMENT, INC.  
Declarant

By *Mark A. Radmall*

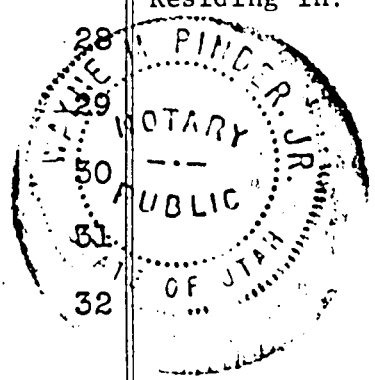
21 State of Utah )  
22 : ss.  
23 County of Utah)

24 On the 21st day of October A.D., 1975 personally appeared before me  
25 MARK A. RADMALL, who being by me duly sworn, did say that he is the President  
26 respectively of the OREM VALLEY DEVELOPMENT, INC. and that the said instrument  
27 was signed in behalf of said corporation by authority of its board of directors  
28 and the aforesaid officers acknowledged to me that said corporation executed  
29 the same.

30 Commission Expires: 9/13/77

31 Residing In: Provo, Utah

*Howard Lewis & Petersen*  
Notary Public



1975 OCT 22 AM 9:57  
RECORDED AT THE REQUEST OF  
PROVO LAND TITLE CO.  
NINA B. REID  
UTAH COUNTY RECORDER  
FEE \$20.00  
PROVO LAND TITLE CO.