

WHEN RECORDED MAIL TO:

Homestead Farms, Inc.  
3646 So Redwood Rd.  
Salt Lake Co. Ut. 84119

Recorded **APR 5 1978** at **2:57 P.**  
Request of **COMMONWEALTH LAND TITLE**  
Fee Paid **KATIE L. DIXON**  
Recorder, Salt Lake County, Utah  
\$ **51.50** By **G. Schwaneveldt** Deputy  
Ref. **G. Schwaneveldt**

DECLARATION OF COVENANTS

3088353

CONDITIONS AND RESTRICTIONS OF  
HOMESTEAD FARMS - PHASE III, A  
PLANNED UNIT DEVELOPMENT

This declaration, made on the date hereinafter set forth by  
Homestead Farms, Inc., hereinafter referred to as "Declarant",

WITNESSETH:

Whereas, Declarant is the owner of certain property in Salt Lake  
County, State of Utah, Which is more particularly described on Exhibit "A",  
hereto attached.

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, which are for the  
purpose of protecting the value and desirability of, 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 insure to the benefit of each  
owner thereof. Prior to the conveyance of the first lot to an owner,  
Declarant shall by appropriate instrument, convey title to the common  
area to Homestead Farms Association.

ARTICLE 1

DEFINITIONS

Section 1. "Association" shall mean and refer to Homestead Farms  
Association.

Section 2. "Owner" shall mean and refer to the record owner,  
whether one or more persons or entitles, of a fee simple title to any Lot  
which is part of the properties, including contract sellers, 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, and such additions thereto as may hereafter  
be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean and refer to that part of the  
property which is not included within the lots, but shall include all road-  
ways, walks, landscaped areas, and all other improvements other than utility  
lines now or hereafter constructed or located thereon.

Section 5. "Lot" shall mean or refer to any plot of land shown  
upon any record subdivision map of the properties with the exception of  
the Common Area.

Section 6. "Declarant" shall mean or refer to Homestead Farms, 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.

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ARTICLE 11  
Property Rights

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

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

(c) 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 seventy-five percent (75%) of each class of members agreeing to such dedication or transfer has been recorded.

(d) The right to individual owners to the exclusive use of parking spaces as provided in Section 3 of this Article.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right to 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. Parking Rights. Ownership of each lot shall entitle the owner or owners thereof to the use of parking spaces that may be provided in addition to the carports that are constructed with each unit on the premises. The number of such parking spaces assigned to an owner shall be at the discretion of the Association. Parking spaces so assigned shall be as near and convenient to the owners' lot as reasonably possible and such Assignment shall be together with the right of ingress and egress in and upon such parking area. Each owner shall garage his vehicles when the same are on the property.

ARTICLE 111  
Membership and Voting Rights

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. When more than one person holds an 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.

Section 2. During the period of 5 years from the date this Declaration is recorded or until the last home is sold on the property described above or property hereafter annexed thereto, whichever date shall first occur, the Declarant shall have the right to name the Board of Directors of the Association. This section shall not be subject to amendment during the terms set forth herein.

ARTICLE IV  
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned withing the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

(1) annual assessments or charges, and  
(2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with 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 for delinquent assessments 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 to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area, and of the homes situated upon the Properties.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$372.<sup>00</sup>

per Lot.

(a) 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 each year as the Board of Directors of the Association shall deem necessary to provide the funds to meet the estimated costs of improving and maintaining the Common Area.

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

Section 5. Notice and Quorum for Any Action Authorized under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty per cent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. 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 7. Date of Commencement of Annual Assessments, Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 8. Effect of Nonpayment of Assessments, Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 18 per cent (18%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments 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.

ARTICLE V  
ARCHITECTURAL CONTROL

Section 1. Buildings. 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 the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such 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 will be deemed to have been fully complied with.

Section 2. Landscaping. No landscaping shall be begun on said properties nor planting of trees shall take place until the plans and specifications therefor, have been first approved in writing by the architectural committee.

Section 3. Diligence and Completion. When any construction is commenced hereunder, work thereon must be diligently pursued and completed within a reasonable time.

Section 4. Inspection and Supervision. The architectural committee shall have the right to enter upon the properties on lot of any owner for the purpose of inspecting and approving the progress of any work hereunder. In the event that any such work is not approved by the committee or the work is not being pursued diligently, the committee shall set forth its objections in writing and deliver the same to the owner or person in charge of the work. Each owner agrees that he will abide by the written directives of the architectural committee and correct any deficiencies immediately. Should an owner fail in this regard, the committee, if other than the Board of Directors, shall report the same to the Board of Directors and suit may be instituted against the owner to secure immediate relief and compliance in a court having appropriate jurisdiction.

ARTICLE VII  
PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice; however, to the right of any such owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

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Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

#### ARTICLE VII Exterior Maintenance

In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, patios, walls, trees, shrubs, grass, walks, and other exterior improvements. Such exterior maintenance shall not include glass surfaces.

Notwithstanding the provisions of Article IV, Section 6, "Uniform Rate of Assessment", if any residence on any Lot or the exterior improvements thereon, shall have a greater exterior surface or larger patio area or landscaped area or other exterior improvement than the average home on the properties, the Board of Directors of the Association may reasonably increase the annual assessment applicable to such lot so as to reflect the increased maintenance cost. No such assessment shall be levied until the owner affected thereby shall be given an opportunity to appear before the Board to present facts to show that such proposed assessment is not reasonable.

In the event that the need for maintenance or repairs caused through the willful or negligent act of the owner, his family, or guests, or invitees, the cost of such maintenance or repair shall be added to and become part of the assessment to which such lot is subject.

#### ARTICLE VIII Use Restrictions and Easements

Restrictions on use. The properties, homes and Common Areas and facilities shall be used and occupied as follows:

1. No part of the properties shall be used for other than housing and the related common purposes for which the properties were designed. Each unit shall be used and occupied as a residence for a single family and for no other purpose.

2. There shall be no obstruction of the Common Areas and facilities nor shall anything be stored in the Common Areas and facilities without the prior written consent of the Association except as is otherwise provided herein.

3. Nothing shall be done or kept in any unit or in the Common Areas and facilities which will increase the rates of insurance on the buildings or contents thereof beyond that customarily applicable for residential use, without the prior written consent of the Association. No owner shall permit anything to be done or kept in his unit or in the Common Areas and facilities which will result in the cancellation of insurance on any building, or the contents thereof, or which would be in violation of any law or regulation of any governmental authority. No waste shall be committed in the Common Areas and facilities.

4. No owner shall cause or permit anything (including, without limitation, a sign, awning, canopy, shutter, storm door, screen door, radio or television antenna) to hang, displayed or otherwise affixed to or placed on the exterior walls or roof or any part thereof, or the outside of windows or doors, without the prior written consent of the association.

5. No animals or birds of any kind shall be raised, bred or kept in any unit or in the Common Areas and facilities, except that dogs, cats and other household pets may be kept in units, subject to the rules adopted by the Association and provided that they are not kept, bred or maintained for any commercial purpose and provided further that any such pet causing or creating a nuisance or disturbance shall be permanently removed from the property upon ten (10) days written notice from the Association.

6. No noxious or offensive activity shall be carried on in any unit or in the Common Areas and facilities, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other unit owners or occupants.

7. Nothing shall be done in any unit or in, on or to the Common Areas and facilities which will impair the structural integrity of the buildings or any part thereof or which would structurally change the buildings or any part thereof as is otherwise provided herein.

8. No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of the Common Areas and facilities, except in a patio court in such manner as not to be visible except from the unit for which such courtyard is reserved. The Common Areas and facilities shall be kept free and clear of all rubbish, debris and other unsightly material.

9. No industry, business, trade, occupation, or profession of any kind, whether for commercial, religious, educational, charitable or other purposes shall be conducted, maintained, or permitted on any part of the property except such as may be permitted by the management committee and subject to the rules, nor shall any "For Sale" or "For Rent" signs or other window displays or advertising be maintained or permitted by any unit owner on any part of the property or in any unit therein, except that

(i) the Declarant may perform or cause to be performed such work as is incident to the completion of the development of the property, or to the sale or lease of units owned by the Declarant;

(ii) The Declarant or its agent may place "For Sale" or "For Rent" signs on any unsold, unoccupied or reacquired units and may place such other signs on the property as may be required to facilitate the sale or lease of unsold units;

(iii) the association of unit owners or its agent or representative may place "For Sale" or "For Rent" signs on any unit or on the property for the purpose of facilitating the disposal of units by any unit owner, mortgagee or the association of unit owners; and

(iv) a unit owner with respect to a unit, and the association of unit owners or its agent or representative with respect to the Common Areas and facilities, may perform or cause to be performed any maintenance, repair or remodeling work, or other work, required or permitted by this Declaration.

#### ARTICLE 1X 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. Failure by the Association or by any 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 judgment or court order shall in no wise affect any other provisions which remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety per cent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five per cent (75%) of the Lot Owners. Any Amendment must be recorded. Declarant may amend this Declaration without the vote of the membership during the term of five (5) years from the Date this Declaration is recorded or at such time as all the lots are sold on the property or property annexed thereto, whichever date sooner occurs.

Section 4. Annexation. Additional residential property and Common Area may be annexed to the properties with the consent of two-thirds (2/3) of each class of members. Provided, however, the developer, without the consent of any other member of the association, may cause the annex to the properties within five (5) years from the date of this instrument any lands which are contiguous to the real property set forth and described on Exhibit "A", hereto attached.

Section 5. Mortgagee Protection Clause. Notwithstanding any other provisions herein contained to the contrary:

(1) a first mortgagee upon request, is entitled to written notification from the association of any default in the performance by an individual Owner-Borrower of any of his obligations under the Declaration, the Articles of Incorporation of the Association or the bylaws of the Association, which default is not cured within sixty (60) days.



(b) any first mortgagee who obtains title to a lot on the properties pursuant to the remedies provided in the mortgage, or foreclosure of the mortgage, or deed ( or assignment in lieu of foreclosure), will be exempt from any "right of first refusal", contained in the planned unit development constituent documents.

(c) any first mortgagee who obtains title to a lot pursuant to the remedies provided in the mortgage or foreclosure of the mortgage, will not be liable for any unpaid dues or charges which accrue prior to the acquisition of title to such unit by the mortgagee.

(d) unless at least seventy-five percent (75%) of the first mortgagees (based upon one vote for each first mortgage owned) or owners (other than the declarant) of the individual Lots in the planned unit development have given their prior written approval, the association shall not be entitled to:

(1) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common property owned directly or indirectly by the association and used for the benefit of the Lots in the planned unit development, The granting of easements for public utilities or for other public purposes consistent with the intended use of such Common Property shall not be deemed a transfer within the meaning of this paragraph;

(2) change the method of determining the obligations, assessment dues or other charges which may be levied against an owner;

(3) by act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of units, the exterior maintenance of units, the maintenance of the Common Property, walk, fences and drive ways, or the upkeep of lawns and plantings in the planned unit development;

(e) first mortgagees shall have the right to examine the books and records of the Home Owner's Association.

(f) first mortgagees may, jointly or singly, pay taxes or other charges which are in default and which or may become a charge against any of the Common Property and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such common Property and first mortgagees making such payments shall be owed immediate reimbursement therefor from the association.

(g) No provision of the planned unit development constituent documents gives a Lot owner or any other party, priority over any rights of first mortgagees in the case of a distribution to a Lot owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Property of the planned unit development.

(h) assessments of the association shall include an adequate reserve fund for maintenance, repairs and replacement of those elements of the Common Property that must be replaced on a periodic basis and such assessments shall be payable in regular installments rather than by special assessments.

Section 6. Insurance. Common Area and Application of Proceeds. The Association shall obtain and keep in full force and effect liability and hazard insurance covering the Common Area and all improvements thereon in the amount of one hundred percent (100%) of the insurable value (based upon current replacement costs), with the insurance written in the name of and the proceeds thereof payable to the Association. Premiums of all insurance carried by the Association shall be uniformly assessed against the Owners of the Lots and shall be included in the annual common assessments of the Association.

In the event of damage to or destruction of any part of the Common Area or improvements thereon, the Association shall repair or replace the same with the proceeds of said liability and hazard insurance; should the proceeds of said insurance be insufficient to completely pay for said repair or reconstruction, the Association shall nevertheless complete said repair or replacement and shall levy a special reconstruction assessment, which assessment shall be in addition to all other assessments under this Declaration, against each Owner on a uniform basis, sufficient to pay for said repair or reconstruction and such reconstruction assessment shall constitute a lien upon the Lot of each Owner.

Section 7. Insurance: Improved Lots and Application of Proceeds.  
The Association shall obtain and keep in full force and effect, hazard insurance covering each Improved Lot in the amount of one hundred percent (100%) of the insurable value (based upon current replacement costs), with the insurance written in the name of and the proceeds thereof payable to the Association. Premiums of all insurance carried by the Association shall be uniformly assessed against the Owners of the Improved Lots and shall be included in the monthly common assessments of the Association.

It is further understood that each Owner shall obtain his own insurance covering liability and personal property.

In the event that all or any portion of any Lot or Improvement thereon is damaged or destroyed, it shall be the duty of the Owner of said Lot to repair or reconstruct the same in a manner which shall restore it substantially to its appearance and condition immediately prior to the damage or destruction, with all plans and specifications for such repair or reconstruction first being submitted for approval to the Architectural Committee referred to in Article V above and being altered to contain all reasonable recommendations by said Committee.

The proceeds from said insurance shall be applied to pay for such repair or reconstruction and for no other purpose, with the Owner himself making up any deficiency in the proceeds necessary to fully pay for such repair or reconstruction.

The provisions of this Section 7 with respect to any particular Lot Owner shall be subject to the right of any mortgagee under the provisions of a mortgage or deed of trust security instrument with respect to insurance proceeds which are in conformity with the requirements of the Federal Home Loan Mortgage Corporation and/or the Federal National Mortgage Association regarding Loans which they will purchase.

Section 8. Subordination of Liens. The lien of any assessments made under Sections 6 and 7 above shall be subordinate to the lien of any first mortgage and extinguished upon foreclosure, judicially or otherwise.

Section 9. Condemnation of Common Area. Should any part of the Common Area be condemned and an award given therefor, the proceeds of such an award shall be distributed to the Association, Lot Owners, and mortgagees as their respective interests appear under appropriate law and documents.

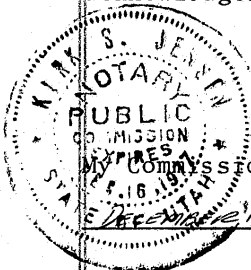
IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 26<sup>th</sup> day of April, 1977.

HOMESTEAD FARMS, INCORPORATED  
Declarant

By [Signature]  
PRESIDENT  
Title

STATE OF UTAH )  
                  : ss.  
COUNTY OF SALT LAKE )

On the 26<sup>th</sup> day of April 1977, personally appeared before me LLOYD PRESTWICH, who being by me duly sworn did say that he is the PRESIDENT of HOMESTEAD FARMS INCORPORATED, and that said instrument was signed in behalf of said corporation by authority of its bylaws and said PRESIDENT acknowledges to me that said corporation executed the same.



[Signature]  
Notary Public  
Residing in FRANCO, UTAH

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