

ALMOND HEIGHTS PARK OWNERS ASSOCIATION
PROTECTIVE COVENANTS

PREAMBLE

Conditions, covenants, restrictions and easements affecting the property of ALMOND HEIGHTS PARK PLAT A owned and being developed by TOQUERVILLE DIXIE PROPERTIES INC., hereinafter called the "Declarant".

W I T N E S S E T H:

This Declaration is made this 25th day of April, 1988, by the Declarant as follows:

WHEREAS, Declarant is the owner of the real property described in Platt A, ALMOND HEIGHTS PARK to this Declaration, and are desirous of subjecting any and all platted developments within the real property described in Platt A, ALMOND HEIGHTS PARK (except those previously deeded) to the restrictions, covenants, reservations, easements, liens and charges hereinafter set forth, each and all of which is and are for the benefit of and pass with said property, and each and every parcel or lot thereof, and shall apply to and bind the successors in interest, and any owner thereof;

NOW, THEREFORE, it is hereby declared that any and all platted developments within the real property described in and referred to in Platt A, ALMOND HEIGHTS PARK hereof is, and shall be held, transferred, sold and conveyed subject to the conditions, restrictions, covenants, reservations, easements, liens and/or charges hereinafter set forth.

(The work "Association" shall hereinafter refer to the "ALMOND HEIGHTS PARK PROPERTY OWNERS ASSOCIATION".)

CLAUSE I

Property Subject to These Covenants

The plat or plats on file at the Washington County Recorder's Office, St. George, Utah, under the name of ALMOND HEIGHTS PARK PLAT A are subject to these protective Covenants. The plat or plats are all contained within the boundaries of the real property. This real property, described hereafter is named ALMOND HEIGHTS PARK PLAT A.

The lots which are, and shall be, held and shall be conveyed, transferred and sold subject to the conditions, restrictions, covenants, reservation, easements, liens and/or charges of these Protective Covenants are located within the boundaries of real property in the town of Toquerville, County of Washington, State of Utah, which real property is more particularly described in Platt A, ALMOND HEIGHTS PARK, attached hereto and by this reference made a part hereof.

0364237 B-0557 Pg 0809

RUSSELL SHIRTS * WASHINGTON CO RECORDER
1990 APR 25 14:48 PM FEE \$17.00 BY KJP
REQUEST: TOQUERVILLE DIXIE PROPERTIES

The Declarant may, from time to time, subject additional real property to the conditions, restrictions, covenants, reservations, easements, liens and/or charges herein set forth by appropriate reference hereto.

It is understood and agreed that all platted developments of the property shall be in compliance with these Protective Covenants as well as any governmental restrictions or requirements which may be required by the town of Touqerville.

CLAUSE II

General Purposes and Conditions

The platted portions of the real property described in Platte A, ALMOND HEIGHTS PARK hereof are subjected to the conditions, restrictions, reservations, easements, liens and/or charges hereby declared to ensure the best use and the most appropriate development and improvement of each platted lot thereof; to protect the owners of lots against such improper use of surrounding lots as will depreciate the value of their property; to preserve, so far as practicable, the natural beauty of said real property; to guard against the erection thereon of poorly designed or proportioned structures, and structures built of improper or unsuitable materials; to ensure the highest and best development of said property consistent with the ordinances and land use development policies of Touqerville Town; to encourage and secure the erection of attractive homes thereon, with appropriate locations thereof on the lots; to secure and maintain proper setbacks from roads, and adequate free spaces between structures; to ensure adequate environmental sanitation within development; to preserve and protect the natural features of the development consistent with the need to alter such natural features with respect to the installation of improvements allowed under the terms of these covenants; and in general provide adequately for a high type and quality of improvements in said property, and thereby to enhance the values of investments made by purchasers of lots therein.

(a) Duration of Covenants; Violations. These Covenants are to run with the land and shall be binding on all parties and all persons claiming under them until May 1, 1998, at which time said Covenants shall be automatically extended for successive periods of ten (10) years, unless by vote of the owners of the lots, these Covenants are at that time changed. All changes must be ratified in writing by the Touqerville Town Planning Commission before they are effective and binding. Said voting shall be based on the eligible votes established in Clause III.

In the event of any violation of, or any attempt to violate, any of the covenants herein, it shall be lawful for the Town of Touqerville, or for Touqerville Dixie Properties Inc., or for the Association, to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such Covenant, and either to prevent him or them from so doing or to recover damages, attorney's fees, costs of court or other dues for such violation.

(b) Invalidation of any Part of Covenants. Invalidation of any one or more of these Covenants or any part thereof by judgments or court order shall in no wise affect any of the other provisions herein which shall remain in full force and in full effect.

(c) Membership in the Association. The owner of each lot to which these Covenants apply shall and must be a member of the Association and participate in the operation of the Association in accordance with the Articles of Incorporation, filed herewith at the office of the Washington County Recorder, St. George, Utah, and with the Secretary of State of the State of Utah, and in accordance with any by-laws of said Association which may be adopted subsequent hereto.

(d) Monthly Assessments. The initial monthly lot assessment is five (\$5.00) dollars per month, for a total of five (\$5.00) dollars per month. The lot assessment begins the calendar month after the lot is purchased; if purchased under contract, then it is the calendar month after the first payment is made. The improvements assessment begins the calendar month after construction of an improvement is begun. (An "improvement" is herein defined to mean a home, barn, shed, or any facility requiring hooking up to the culinary water main and/or the electrical power cable.) The assessments are to be paid to the Association and are to be used for the responsibilities and functions of the Association (see paragraphs aa and ad). The Association address is: P. O. Box 179 Cedar City Utah. The lot assessment is subject to change from year to year. The five (\$5.00) dollar per month charge is for the calendar year 1988. The lot or improvement assessment may be increased or decreased from year to year as may be determined necessary by the trustees of the Association to pay the obligations of the Association. All assessments are due and payable quarterly on the 10th day of January, April, July and October of each year. Notice of assessment changes shall be given in writing to each lot owner by the Association.

(e) Easements. It is understood and agreed that the Town of Toquerville, the Association and Toquerville Dixie Properties Inc. shall have easements as indicated on the plats filed with Washington County Recorder

(f) Subdivision of Lots. All lots described in Platt "A" of ALMOND HEIGHTS PARK may be subdivided as long as no subdivided parcel is less than 1.0 (ONE) acres in size. Any such subdivisions must be approved by the Toquerville Town Planning Commission. Any new lots thus formed shall be protected and restricted by these Covenants.

(g) Inadmissible Activities. No noxious or offensive trade or 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 lot or building thereon may be used as a club, either profit or nonprofit.

No sign of any kind shall be displayed to public view on or from any lot unless prior consent of the Architectural and Landscape Committee is given in writing.

(h) ALMOND HEIGHTS PARK AREA. A common area is given to the Town of Toquerville for the use, enjoyment and recreation of lot owners and their guests. The common area known as "The Park" .

(i) Types, Design and Placement of Structures. No "structure" (this term shall include home, barn, shed, corral, fence, driveway, culvert, bridge, or the like) shall be erected, placed or altered on any lot in ALMOND HEIGHTS PARK until the plans thereof, specifications and the plot plan showing the locations of such structures have been approved in writing by the Architectural and Landscape Committee. Such approval will concern itself with the acceptability and harmony of external design, building material, etc., with existing structures in ALMOND HEIGHTS PARK and as to the location of the structures with respect to lot lines, topography and finished ground elevation. In the event said Committee, or its designated representatives, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, such approval will not be required and this Covenant will be deemed to have been fully complied with. At the time such plans, etc., are received by the Architectural and Landscape Committee, the Committee will issue to the applicant a dated receipt briefly listing the items submitted.

No structure shall be erected, altered, placed or permitted to remain on any lot other than one detached family dwelling, a private garage and other structures incidental to the use of the lot.

It is understood that barns, storage sheds, tack rooms, and other types of rural buildings, except outhouses for the disposal of human wastes, may be constructed upon the property so long as they are in conformity with a harmonious development of the properties and receive approval of the Architectural and Landscape Committee.

No main residential structure shall be permitted on any lot covered by these Covenants, the habitable enclosed floor area (excluding basement floor area) of which is less than one thousand (1,500) square feet.

No structure shall be built upon any lot with a height exceeding three stories above the existing ground elevations unless approved by the Architectural and Landscape Committee.

No building shall be located on any lot less than thirty (30) feet from the road right-of-way for all lots covered by these Covenants, nor less than twenty (20) feet from any side lot line, unless approved by the Architectural and Landscape Committee. No residence shall be located so as to reduce the depth of the rear yard of the lot on which it is located to less than forty (40) feet, unless approved by the Architectural and Landscape Committee.

No barn, corral or coop shall be constructed closer than one hundred (100) feet to any existing dwelling nor shall any corral, pen or coop be constructed or maintained closer than twenty (20) feet to any open waterway that drains into a natural stream. Surface drainage from corrals, pens, or coops shall not be permitted to drain into a waterway that drains into natural streams.

(j) Roads and Parking Restrictions; Liability for Damage. The main roads in ALMOND HEIGHTS are fifty (50) feet and sixty-six (66) feet wide, and will be hard-surfaced to thirty (30) foot widths. Snow removal shall be the responsibility of the Association.

Parking is not permitted on any of the roads. Parking must be in driveways, in garages, or in a parking area approved by the Architectural and Landscape Committee. Any damage done to the common facilities, security gates, bridges, etc., by persons or their vehicles while in ALMOND HEIGHTS PARK shall be paid for by the person or persons causing the damage.

(k) Building Time. It is understood that a lot owner is not required to build any structure. The building time for the exterior portion of any structure (defined in paragraph i) shall not exceed 60 months from start to finish. All debris, excavation dirt, etc., associated with the building process shall be removed within these specified building times. Excavation dirt shall either be removed entirely or shall be spread out and reseeded within this specified time so as to return the lot to a pleasing appearance.

(l) Lot Maintenance and Appearance. Each owner shall be required to reasonably, necessarily, and adequately maintain his property to keep it in a reasonable state of appearance and preservation.

No open storage of building materials, except during the course of actual construction, shall be permitted on any lot, nor shall junk or other unsightly items ever be maintained or stored on any lots.

Protective Covenants

Any detached storage units, trailers, farm machinery, etc., shall be maintained or stored only in areas enclosed to view from the roads, unless approved by Architectural and Landscape Committee.

No trucks, graders, or other construction equipment may be parked on any lot except during the periods of construction which actually require such equipment, unless approved by Architectural and Landscape Committee.

(m) Culinary Water. An underground culinary water system will service lots in ALMOND HEIGHTS PARK and will be brought to each lot. Each lot owner will install, at his own expense, a water line extension to his lot from the water system, a water meter and shut-off valve and a lateral to his home at the time of construction upon his lot.

(n) Fire Protection. A six (6") inch water main or larger services lots in ALMOND HEIGHTS PARK. Fire hydrants will be placed at regular intervals, in accordance with regulations and codes.

(o) Trash Collection and Burning Policies. There shall be no open burning of trash on any lots under any circumstances or conditions except at times and places indicated by the trustees. Trash cans must be covered and kept out of sight in suitable enclosed areas, except during collection. Trash and garbage removal will be taken care of by each lot owner, or by arrangements made through the Home Owners Association.

(p) Drainage System. A series of naturally existing drainage ditches and washes has been formed through the past in the area in which ALMOND HEIGHTS PARK is located. This drainage system must be properly maintained in the event of a cloud burst or of a fast thaw in the springtime in which large amounts of water must be properly conducted. In some places it may be deemed necessary or advisable by the Association to deepen or alter the course of these ditches and washes to better protect the lots and improve the drainage. Each lot owner shall be responsible to maintain the drainage ditch or washes on his own lot in a proper and operable manner, keeping it free of debris.

(q) Electrical Power and Telephone Services. Electrical power will be available to each lot. Hook-up arrangements must be made with the electrical power company.

Telephone service will also be through underground cables.

(r) Sewage Facilities. Sewage disposal shall be through sewer system that is being constructed and after construction will be maintained by Togerville Town or Southwest Sewer District.

(t) Domestic Animals and Pets. Domestic and farm animals may be maintained by the lot owners, provided, however, the species and number of each species are approved by the Architectural and Landscape Committee and provided further that such farm animals shall not be maintained in areas having access closer than 50 feet to any residence built on adjoining lot. However, commercial raising of farm animals or other types of animals and pets shall not be permitted. Normal pets may be maintained by the property owners. Wild, caged pets are not permitted unless permission is granted in writing by the Board of Trustees. If animals (for example dogs) maintained by a lot owner kill or maim animals owned by others, the owner of the animal or animals killed or maimed shall be reimbursed at fair market value for their loss by the owner of the animal which did the deed.

(u) Corrals, Fences and Grazing. One corral may be built on each lot, the size of which may not exceed one-fourth (1/4) acre. The placement of the corral must be in accordance with paragraph i. The corral fence shall be approved by the Architectural and Landscape Committee and shall be maintained in good condition.

No fence (included in this term are wall, hedge, mass planting or the like) shall be permitted to extend beyond the minimum building setback line established herein on any corner lot which will create a traffic hazard by obstructing view. Homes may be fenced in fences and shall be maintained in good condition. Fences shall be allowed except in areas designated by the Architectural and Landscape Committee. All fences or hedges must be approved by the Architectural and Landscape Committee.

(v) Ecological Considerations. There shall be no removal of living trees or shrubs on any building lot except as approved by the Architectural and Landscape Committee. Planting of non-indigenous trees and shrubs must be approved by the Architectural and Landscape Committee.

The Association may spray herbicides on noxious plants in some areas to enhance the beauty of the area and to reduce fire hazards. The Association may also from time to time cut weeds and grasses and clear brush and dead trees in certain areas to reduce fire hazards. The individuals doing the cutting and spraying shall have reasonable ingress and egress rights on all lots for this purpose.

The Association may plant trees and shrubs along roadways and in the common areas to enhance the natural beauty, provide windbreaks and improve erosion control. Grasses may also be planted in specific areas to improve erosion control.

All home owners are requested to use biodegradable detergents, soaps, etc., since such materials find their way into the sewer system and must eventually be added back into the environment. The pouring into the sewer system of non-biodegradable substances is specifically prohibited.

(w) Motorcycles and Other Vehicles; Speed Limit. Excessively noisy vehicles are restricted from being used on any ALMOND HEIGHTS PARK property. No off-road activities by motorized vehicles is allowed on the real property because of the noise and erosion-enhancing characteristics of such activities. The Architectural and Landscape Committee shall be the judge of whether a vehicle is excessively noisy.

The maximum speed limit on roads in ALMOND HIGHT PARK is thirty (30) miles per hour.

(x) Trailer Home, Mobile Home and Camper Policy. Trailer homes or mobile homes shall not be permitted on any of the lots in ALMOND HEIGHTS PARK unless approved by the Architectural and Landscape Committee. Campers or camper-trailers or travel trailers are permitted on lots if they are in an area that will not detract from the value of the property. Must be approved in writing by the Association.

(y) Hunting and Target Practicing Policy. Hunting or target practice, either with guns, B-B Guns, or bows shall not be permitted on any of the real property described in Exhibit "A". Such activities should not be carried on at any time since they will create unnecessary risks or hazardous conditions to occupants in the Area.

(z) ALMOND HEIGHTS PARK SECURITY SYSTEM. Access to ALMOND HEIGHTS PARK will not be controlled at this time. Privacy will be encouraged. However, the Trustees may institute security measures or install a security system if determined necessary or desirable in the future.

(aa) Responsibilities and Jurisdictions of the Association. The Association's responsibilities and jurisdictions extend to and are limited by the areas platted and recorded in the Office of the Washington County Recorder, St. George, Utah, under the name "ALMOND HEIGHTS PARK PLAT A" and to the common areas associated therewith, and to all roads, structures and systems dedicated.

1. The Association shall supervise or, maintain and have jurisdiction over with the approval of Toquerville Town the following:

- a. Fences along all main roads.
- b. All entry gates and signs associated with the main roads.
- c. Tree and shrub plantings along roadways and in common areas.

2. The Association's Board of Trustees shall have jurisdiction over collection and disbursement of all lot and improvements assessments as well as any other assessments. The Board of Trustees shall also be responsible for initiating on behalf of the Association any suits against lot owners who violate or attempt to violate any of the Protective Covenants.

(ab) Responsibilities and Services of TOQUERVILLE DIXIE PROPERTIES.

1. Toquerville Dixie Properties Inc shall:

- a. Provide a survey in which at least 2 corners of each lot are staked.
- b. Build roads according to the agreement with Toquerville City.
- c. Build the culinary water system according to the agreement with Toquerville City.

(ad) Items for Which Assessments are Disbursed.

1. Costs of any legal work necessary to the proper functioning of the Association.
2. Accounting and bookkeeping services.

3. Any other item for which the Association may be obligated.

(ae) Failure of Architectural and Landscape Committee to Insist on Strict Performance--No Waiver.

The failure of the Architectural and Landscape Committee or Trustees to insist in any one or more instances upon the strict performance of any of the terms, conditions, or restrictions of these Protective Covenants, or to exercise any right or option herein contained, or to serve any notice of or to institute any action, shall not be construed as a waiver of a relinquishment for the future, of such term, covenant, condition, or restriction but such term, covenant, condition, or restriction shall remain in full force and effect. The receipt by the Architectural and Landscape Committee or Trustees of any assessment from a lot owner, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by the Architectural and Landscape committee or Trustees of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Architectural and landscape Committee or Trustees.

CLAUSE III

Amendments

These Protective Covenants may be amended at any time by a vote of 51% of the number of eligible votes. The votes are calculated on the basis of one eligible vote per lot. Protective Covenants of the Association. (Refer to the Association's Articles of Incorporation, Article IV, Membership, for definition of "eligible" vote.) Change or amendment may be effected only if such is in compliance with Utah State Laws or the laws of other applicable political subdivisions of the State of Utah. All changes or amendments hereto must subsequently be approved in writing by the Toquerville Planning Commission before they become effective.

These Protective Covenants dated and signed the 25th day of April A.D. 1988.

TOQUERVILLE DIXIE PROPERTIES INC.

By *William M. ...*
PRESIDENT OR VICE PRESIDENT

ALMOND HEIGHTS PROPERTY OWNERS ASSOCIATION

By _____ Trustee

By *Olivia S. LeFevre*

Trustee

By _____

Trustee

By _____

Trustee

STATE OF UTAH }
Iron } ss
County of Washington)

On the *25th* day of *April*, 1988, personally appeared before me *William A. ...* the signers of the within instrument, who being by me duly sworn did say that they are the persons that signed the above document and execute it on behalf of TOQUERVILLE DIXIE PROPERTIES INC.

Joseph D. ...
NOTARY PUBLIC

Residing at *City of ...*

My Commission expires *2/2/91*



STATE OF UTAH,
County of Washington

On the 25th day of April, 1988, personally appeared
before me William N. Baird and OLIVIA D. LEAVELLE

and duly acknowledged that they
are the signers of the foregoing Protective Covenants, as Trustees of the
ALMOND HEIGHTS PARK PROPERTY OWNERS ASSOCIATION, and that they executed
the same on behalf of said association.

Joseph Dabirine
NOTARY PUBLIC

Residing at
Cotton City, ARK

