

Ser. No.

43972

DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS

TO

THE "TAYLOR TERRACE" PLANNED UNIT DEVELOPMENT

Provo, Utah

THIS DECLARATION made this 24th day of December, 1977, by CLARENCE D. TAYLOR, ALICE T. NELSON and RUTH T. KARTCHNER, Trustees, and the TAYLOR TERRACE HOME OWNERS ASSOCIATION, a Utah non-profit corporation, hereinafter called "Developers",

W I T N E S S E T H:

WHEREAS, the above are the legal owners of the real property described in Article II of this declaration and desire to create thereon a planned dwelling community where the pleasure and pride of ownership is not over burdened by the routine drudgery of maintaining the buildings, grounds, services and facilities, and

WHEREAS, the Developers desire to provide for the preservation of the values and amenities in said community and for the maintenance of buildings, open spaces and common facilities and to this end desire to subject the real property described in Article II, together with such additions as may hereafter be made thereto to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which are for the benefit of said property and for each owner thereof, and

WHEREAS, Developers have deemed it desirable for the efficient administration of such matters in said community to create an agency to which should be delegated and assigned the powers of maintaining and administering the facilities and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created, and

WHEREAS, Developers have incorporated under the laws of the State of Utah as a non-profit corporation, the TAYLOR

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TERRACE HOME OWNERS ASSOCIATION, for the purposes of exercising the functions above indicated,

NOW, THEREFORE, the Developers and the TAYLOR TERRACE HOME OWNERS ASSOCIATION declare that the real property described in Article II and such additions thereto as may hereafter be made, is and shall be held, transferred, sold, conveyed and occupied, subject to the covenants, restrictions, easements, charges and liens (sometimes hereinafter referred to as "covenants and restrictions") hereinafter set forth.

ARTICLE I
DEFINITIONS

Section 1. The following words when used in this declaration or any supplemental declaration unless the context shall prohibit shall have the following meanings:

(a) "Association" shall mean and refer to the TAYLOR TERRACE HOME OWNERS ASSOCIATION.

(b) The "Properties" shall mean and refer to all existing properties and additions thereto as are subject to this declaration or any supplemental declaration.

(c) "Common Properties" shall mean and refer to those areas of land shown on any recorded subdivision plat of the properties and intended to be devoted to the common use and enjoyment of the owners of the properties.

(d) "Dwelling Unit" shall mean and refer to any portion of a building situated upon the properties designated and intended for use and occupancy as a residence by a single family.

(e) "Owner" shall mean and refer to the record owner whether one or more persons or entities of the fee simple title to any dwelling unit situated upon the properties, but, notwithstanding any applicable theory of any mortgage, owner shall not refer to or mean a mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

(f) "Member" shall mean and refer to all those owners who are members of the association as hereinafter provided.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

ADDITIONS THERETO

Section 1. Existing Property. The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to this declaration is located in Utah County, Utah, and is more particularly described in Exhibit "A" attached hereto, all of which real property shall hereinafter be referred to as "Existing Property".

Section 2. Additions to Existing Property. Additional lands may become subject to this declaration in the following manner:

(a) Additions in Accordance With a General Plan of Development. The Developers or assigns shall have the right to bring within the scheme of this declaration additional properties in future stages of the development, provided that such additions are in accord with the general plan of development prepared prior to the sale of any dwelling unit and made known to every purchaser (which may be done by brochure delivered to each purchaser) prior to such sale.

Such general plan of development shall show the proposed additions to the existing property and contain: (1) a general indication of size and location of additional development stages and proposed land uses in each; (2) the approximate size and location of common properties proposed for each stage; (3) the general nature of proposed common facilities and improvements; (4) a statement that the proposed additions, if made, will become subject to assessment for their prorata share of association expenses; and (5) a schedule for termination of the developers'

right under the provisions of this subsection to bring additional development stages within the scheme. Unless otherwise stated therein, such general plan shall not bind the developers or assigns to make the proposed additions or to adhere to the plan in any subsequent development of the land shown thereon and the general plan shall contain a conspicuous statement to this effect.

The additions authorized under this and the succeeding subsection shall be made by filing of record a Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the scheme of the covenants and restrictions of this declaration to such property.

Such supplementary declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the scheme of this declaration. In no event, however, shall such supplementary declaration revoke, modify or add to the covenants established by this declaration with the existing property.

(b) Other Additions. Upon approval in writing of the association pursuant to a vote of its members as hereinafter provided, the owner of any property who desires to add it to the scheme of this declaration and to subject it to the jurisdiction of the association, may file of record a Supplementary Declaration of Covenants and Restrictions as described in subsection (a) hereof.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every person or entity who is a record owner (including an equitable or beneficial ownership) or a contract purchaser of a fee or undivided fee interest in any dwelling unit which is subject by these covenants to assessment by

the association as set forth in Article V hereof must be a member of the association, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member.

Section 2. Voting Rights. Each member shall be entitled to one vote for each dwelling unit in which they hold the interest required for membership by Section 1 above. When more than one person holds such interest in any dwelling unit, all such persons shall be members and the vote for such dwelling unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one dwelling unit.

ARTICLE IV

PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3, every member shall have a right and easement of enjoyment in and to the common properties and such easement shall be appurtenant to and shall pass with the title to every unit.

Section 2. Title to Common Properties. The developers may retain the legal title to the common properties until such time as they have completed improvements thereon and until such time as, in the opinion of the developers, the association is able to maintain the same, but, notwithstanding any provision herein, the developers hereby covenant for themselves and assigns that they shall convey the common properties (but not including any area for roads or streets as may have previously been conveyed to Provo City, Utah for such purposes and benefit of the owners) to the association, free and clear of all liens and encumbrances, but not later than January 1, 1978.

Section 3. Extent of Members' Easements. The rights

and easements of enjoyment created hereby shall be subject to the following:

- (a) The right of the developers and of the association in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the common properties and in aid thereof to mortgage said properties. In the event of a default upon any such mortgage the lender's rights hereunder shall be limited to a right, after taking possession of such properties, to charge admission and other fees as a condition to continued enjoyment by the members and, if necessary, to open the enjoyment of such properties to a wider public use until the mortgage debt is satisfied, whereupon the possession of such properties shall be returned to the association and all rights of the members hereunder shall be fully restored; and
- (b) The right of the association to take such steps as are reasonably necessary to protect the above described properties against foreclosure, and
- (c) The right of the association, as provided in its By-Laws, to suspend the enjoyment rights of any member for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations; and
- (d) The right of the association to charge reasonable admission and other fees for the use of the common properties; and
- (e) The right of the developers or of the association upon majority vote to dedicate or transfer all or any part of the common properties to any public agency, authority, or utility for purposes and subject to conditions consistent herewith.

Section 4. Parking Rights. The association shall maintain upon the common properties at least two (2) parking spaces for each dwelling unit unless otherwise provided. Subject to reasonable rules and conditions, the association shall designate at least two (2) parking spaces conveniently located with respect to each dwelling unit for the exclusive use of the members residing therein, their families and guests. The right to the exclusive use of such parking spaces and to the maintenance and designation thereof by the association shall be appurtenant to and shall pass with the title with each dwelling unit.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The developers, for each dwelling unit owned by them within the properties, hereby covenant and each owner of any dwelling unit by acceptance of a deed or contract therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the association annual or special assessments or charges for improvements or maintenance, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, 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 such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the properties and in particular for the improvement and permanent maintenance of properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the common properties, including, but not limited to, the payment of taxes and insurance thereon and repair, replacement, and additions thereto, and for the cost of labor, equipment, materials, management, and supervision thereof.

Section 3. Basis and Maximum of Annual Assessments.
Until the year beginning January, 1978, the annual

assessment shall be \$360.00 per completed dwelling unit. From and after January 1, 1978, the annual assessment may be increased by vote of a majority of the Board of Trustees of the association for the next succeeding two (2) years and at the end of each such period of two (2) years thereafter.

The Board of Trustees of the association may, after consideration of current maintenance costs and future needs of the association, fix the actual assessment for any year at a lesser amount.

Section 4. Special Assessments for Maintenance. In addition to the annual assessments authorized by Section 3 hereof, the Board of Trustees of the association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying the cost of any necessary repair or replacement of a described improvement upon the common properties, including the necessary fixtures and personal property related thereto or the cost of any tax or necessary insurance expense.

Section 5. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by the Board of Trustees of the association to be the date of commencement.

The assessments for any year shall become due and payable on the first day of March of said year.

The amount of the annual assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment provided for in Section 3 hereof as the remaining number of months in that year bear to twelve. The same reduction in the amount of the assessment shall apply to the first assessment levied against any property which is hereafter added to the properties now subject

to assessment at a time other than the beginning of any assessment period.

The due date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

Section 6. Duties of the Board of Trustees. The Board of Trustees of the association shall fix the date of commencement and the amount of the assessment against each dwelling unit for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the association and shall be open to inspection by any owner.

Written notice of the assessment shall thereupon be sent to every owner subject thereto.

The association shall upon demand at any time furnish to any owner liable for said assessment a certificate in writing signed by an officer of the association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 7. Effect of Non-Payment of Assessment; The Personal Obligation of the Owner; The Lien; Remedies of Association.

If the assessments are not paid on the date when due, then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of ten per cent (10%) per annum, and the association may bring an action at law against the owner personally obligated to pay the same or to foreclose the lien against the property or both, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action.

Section 10. Subordination of the Lien to Mortgages and Taxes. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the properties subject to assessment and to general taxes; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to the sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

Section 11. Exempt Property. The following property subject to this declaration shall be exempted from the assessments, charge and lien created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by a public authority and devoted to public use; (b) all common properties as defined in Article I, Section 1, hereof.

Notwithstanding any provisions herein, said assessments, charges or liens shall be paramount to any claimed homestead exemption under the laws of the State of Utah and any person upon

becoming a member of the association shall be deemed to have specifically waived such exemption.

ARTICLE VI

GENERAL PROVISIONS

Section 1. Use of Properties.

(a) No commercial enterprise or business shall be conducted on the properties.

(b) Each dwelling unit is restricted to a single family residence.

(c) Trailers, camp trailers, campers, sportsmen trailers, trucks larger than three-quarter ton capacity, and any other vehicles of such type or kind shall not be permitted to park for more than twenty-four (24) continuous hours anywhere within the boundaries of the properties.

(d) No building, fence, wall or other structure shall be commenced, erected or maintained, nor shall there be any exterior addition to or change or alteration made to any dwelling unit until plans and specifications are submitted to the Board of Trustees of the association or such architectural committee as it may appoint and approved by them in writing.

(e) No pets shall be kept on the properties.

Section 2. Safety. All members and users of the properties shall adhere to all safety regulations established by the property owners association.

Section 3. Architectural Control Committee. No building, fence, wall or other structure shall be commenced, erected or maintained upon the properties, nor shall an 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 Trustees 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 shall fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, or in any event, if no suit to enjoin the addition, alteration or change has been commenced prior to the completion thereof, approval will not be required and this Article will be deemed to have been fully complied with.

Section 4. Children. Children under the age of sixteen years shall be the direct responsibility of their parents and such parents shall be liable for any damages caused by such children to property of other owners in the development or to common areas.

Section 5. Alcoholic Beverages. No alcoholic beverages may be consumed in the common areas of the properties except upon written permission granted by the Board of Trustees of the association.

Section 6. Renting and Subletting. No owner, member or occupant of any dwelling unit shall rent or sublease such unit to single students for batching apartments.

ARTICLE VII

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as part of the original construction of the dwelling units upon the properties and placed on the dividing line between the dwelling units 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 negligent or wilful 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 walls 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 wilful acts or omissions.

Section 4. Weather Damage. Notwithstanding any other provisions of this Article, an owner, who by his negligent or wilful 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 The Land. The right of any owner to contribution from any other owner under this Article shall be appurtenant to the property and shall pass to such owners' successor 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 an arbitrator and such arbitrators shall choose an additional arbitrator and the decision of a majority of all of the arbitrators shall be final and conclusive of the questions involved.

ARTICLE VIII

EXTERIOR MAINTENANCE

Section 1. Exterior Maintenance. In addition to maintenance upon common properties, the association may, at the

request of an owner provide exterior maintenance upon each dwelling unit which is subject to assessment under the provisions of this declaration.

Section 2. Assessment of Cost. The cost of such exterior maintenance shall be assessed against the dwelling unit upon which such maintenance is done and shall be added to and become part of the annual maintenance assessment or charge to which such living unit is subject under the provisions of this declaration and as part of such annual assessment or charge, it shall be a lien and obligation of the owner and shall become due and payable in all respects as provided in this declaration. Provided, however, that the Board of Trustees of the association when establishing the annual assessment against each dwelling unit for any assessment year as required under this declaration, may add thereto the estimated cost of the exterior maintenance for that year and shall thereafter make such adjustment with the owner as is necessary to reflect the actual cost thereof.

Section 3. Access. For the purpose solely of performing the exterior maintenance required or authorized by this Article, the association through its duly authorized agents or employees shall have the right, after reasonable notice to the owner, of access to such living unit at reasonable hours on any day except Sunday.

ARTICLE IX

DURATION

Section 1. Duration. The covenants and restrictions of this declaration shall run with and bind the land and property and shall inure to the benefit of and be enforceable by the association, or the owner of any property subject to this declaration, his respective legal representatives, heirs, successors and assigns for a term of twenty (20) years from the date this

declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then owners of a majority of the units has been recorded by which such owners agree to change said covenants and restrictions in whole or in part; provided, however, that no such agreement to change shall be effective unless made and recorded three (3) years in advance of the effective date of such change and unless written notice of the proposed agreement is sent to every owner at least ninety (90) days in advance of any action taken.

Section 2. Notices. Any notice required to be sent to any member or owner under the provisions of these declarations shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person who appears as member or owner on the records of the association at the time of such mailing.

Section 3. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction and may be either to restrain violation or to recover damages and may be against the property to enforce any lien created by these covenants. Failure by the association or any owner to enforce any covenants or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

DATED this 24th day of December, 1977.

Clarence D. Taylor
CLARENCE D. TAYLOR

Alice T. Nelson
ALICE T. NELSON

Ruth T. Kartchner
RUTH T. KARTCHNER

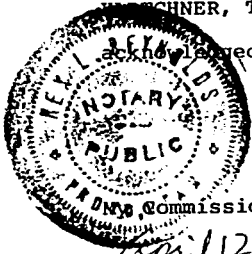
TRUSTEES - DEVELOPERS

TAYLOR TERRACE HOME OWNERS
ASSOCIATION

By Joseph T. Bentley
Its President

STATE OF UTAH,)
 : SS.
COUNTY OF UTAH.)

On the 27th day of December, 1977, personally
appeared before me CLARENCE D. TAYLOR, ALICE T. NELSON and RUTH T.
KARTCHNER, Trustees, signers of the foregoing instrument who duly
sworn to me that they executed the same.



Joseph T. Bentley
NOTARY PUBLIC

Residing at: Provo, Utah

Commission Expires:
April 12, 1978

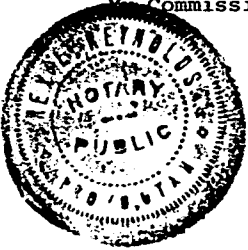
STATE OF UTAH,)
 : SS.
COUNTY OF UTAH.)

On the 24th day of December, 1977, personally
appeared before me Joseph T. Bentley, who being by me
duly sworn did say that he is the President of TAYLOR TERRACE HOME
OWNERS ASSOCIATION, and that the foregoing instrument was signed

in behalf of said corporation by authority of a resolution of its Board of Trustees and he duly acknowledged to me that said corporation executed the same.

Ray L. Bendt
NOTARY PUBLIC

Commission Expires: April 12, 1978 Residing at: Provo, Utah



E X H I B I T "A"

EXISTING PROPERTY TAYLOR TERRACE PLANNED UNIT DEVELOPMENT,
PROVO CITY, UTAH COUNTY, UTAH:

BEGINNING at a point which is North 396.00 feet and West 92.50 feet from the Southeast corner of Section 30, Township 6 South, Range 3 East, Salt Lake Base and Meridian; thence West 375.41 feet to the East line of Temple View Drive; thence North 43°51' East along said street line 395.06 feet; thence 110.89 feet along said East street line on the arc of a 1050.17 foot radius curve to the left whose chord bears North 40°49'30" East 110.84 feet; thence North 37°48' East along said East street line 200.96 feet; thence 151.94 feet along said street line on the arc of a 279.25 foot radius curve to the left whose chord bears North 22°12'45" East 150.07 feet; thence East 285.37 feet; thence 40.01 feet along the arc of a 120.00 foot radius curve to the right whose chord bears South 19°46'57" West 39.82 feet; thence South 29°20' West 256.00 feet; thence North 75°41' West 118.50 feet; thence South 36°14' West 257.66 feet; thence South 16°17' West 124.55 feet; thence South 2°37' East 107.88 feet to the point of beginning.

AMENDED NOTES TO MAP FILINGS

The "Common Property" of TAYLOR TERRACE PLANNED UNIT DEVELOPMENT, Provo, Utah, includes all of the property above described except that indicated by shading and designated by the word "Unit" and its appropriate number, as shown on Map Filing No. 1464, Entry No. 25125, recorded December 9, 1975, records of County Recorder of Utah County, Utah and Map Filing No. 1765, Entry No. 15280, recorded May 19, 1977, records of County Recorder of Utah County, Utah. Such shaded areas are designated as "Private Property" and include each actual dwelling unit, its appurtenant structures and the land upon which each such unit is situated. (The underlined language constitutes an amendment to said original map filings by including the land under each dwelling unit as a part thereof and thus such land is included within the designation of "Private Property".)

57-52152

RECORDED AT THE REQUEST OF
Blaine Taylor
BOOK _____
1977 DEC 27 AM 10:30
TAYLOR TERRACE PLANNED UNIT DEVELOPMENT
MAP FILING NO. 1464
ENTRY NO. 25125
21,900 square feet
Blaine Taylor
Blaine Taylor
Blaine Taylor

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