

541334

DECLARATION OF PROTECTIVE COVENANTS

WHEREAS, DIMOND DEVELOPMENT, hereinafter referred to as "Developer" is the owner of the following described real property located in Davis County, Utah:

Lots 1 through 41 inclusive of DIMOND OAKS, a subdivision, according to the official plat thereof, recorded as Entry No. _____ in Book _____ in the office of the County Recorder.

WHEREAS, it is the desire and intention of the Developer to sell the lots described above and to impose on them mutually beneficial restrictions under a general plan of improvement for the benefit of all the lots in the subdivision and the future owners of those lots;

NOW THEREFORE, the Developer hereby declares that all of the lots described above are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved subject to the following covenants and conditions, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of the lots described above and are established and agreed upon for the purpose of enhancing and protecting the value, desirability, and attractiveness of the lots. All of the covenants, and conditions shall run with the land and shall be binding on all parties having and/or acquiring any right, title or interest in the above lots or any part thereof.

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I. GENERAL USE RESTRICTIONS

1. Land Use and Building Type. No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed two stories in height and a private garage for not more than three cars; provided, however, that lots to be used for school or church purposes may be permitted by the Architectural Control Committee. No dwelling shall be erected, placed or permitted to remain on any lot that does not have attached to it a private garage for at least two cars. Carports are prohibited. "Family" is defined to mean persons related by blood, or marriage, by legal adoption, or by operation of law.

2. Dwelling Cost, Quality and Size. No dwelling shall be permitted on any lot at a cost of less than two and one half times the amount of which the underlying lot was purchased, said construction cost to be based on cost levels prevailing on the date this Declaration is recorded, it being the intention and purpose of the covenant to assure that all dwellings shall be of a quality of workmanship and materials substantially the same, or better, than that which can be produced on the date these covenants are recorded, at the minimum cost stated herein for the minimum permitted dwelling size. The ground floor area of the main structure, exclusive of one story open porches and garages, shall not be less than 1,500 square feet for a bi-level or one story dwelling. Consult Architectural committee for a two-story dwelling. In a split level dwelling the combined area of the single level and the upper of the two levels in the adjoining two story portion of the dwelling, exclusive of garage and any one-story open porches, shall not total less than 1,500 square feet.

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3. Exception for Developer. Notwithstanding the restrictions contained in this Article I, for the twenty (20) year period following the date on which this Declaration is filed for record in the office of the County Recorder of Davis County, Utah, the Developer shall have the right to use any lot or living unit owned by it, reasonably necessary or appropriate, in furtherance of any other activities designed to accomplish or facilitate improvement or sale of all lots owned by Developer.

4. Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the Owner of the lot, except for those improvements for which a public authority or utility company is responsible.

5. Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon any property within Dimond Oaks and no odors shall be permitted to arise therefrom so as to render any such property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. No noise or other nuisance shall be permitted to exist or operate upon any such property so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on any such property without the prior written approval of the Architectural Control Committee.

6. Animals. No animals of any kind shall be raised, bred or kept except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes and do not become an annoyance or nuisance in the neighborhood. Such animals as are permitted shall be strictly controlled and kept pursuant to the Davis County ordinance prohibiting dogs from being off the premises of the owner and not under control.

7. Temporary and Other Structures. No structures of a temporary nature, trailer, basement house, tent, shack, garage, barn or other outbuildings shall be used at any time as a residence either temporarily or permanently, nor shall said structures be permitted on said property at any time. No old or secondhand structures shall be moved onto any of said lots, it being the intention hereof that all dwellings and other buildings be erected on said lots, or within said subdivision, shall be new construction of good quality, workmanship and materials.

8. Unsightly Articles. No unsightly articles shall be permitted to remain so as to be visible from adjoining property. Without limiting the generality of the foregoing, trailer, mobile homes, trucks other than pickups, boats, tractors, vehicles other than automobiles, campers not on a truck, snowmobiles, snow removal equipment and garden or maintenance equipment shall be kept at all times, except when in actual use, in an enclosed

structure or screened from view; refuse, garbage and trash shall be kept at all times in a covered, noiseless container and any such container shall be kept within an enclosed structure or appropriately screened from view; service areas, storage piles, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view; and no lumber, grass, shrub or tree clippings or plant waste, metals, bulk materials or scrap or refuse or trash shall be kept, stored or allowed to accumulate on any property except within an enclosed structure or appropriately screened from view.

9. No Further Subdividing. No lot may be further subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof (excluding Grantor) without the prior written approval of the Architectural Control Committee; provided, however, that nothing herein shall be deemed to prevent or require the approval of the Architectural Control Committee for the transfer or sale of any lot or living unit to more than one person to be held by them as tenants in common, joint tenants, tenants by the entirety or as community property.

10. Signs. Except for any Commercial Area signs installed by Grantor or shown or provided for on any plans approved by Grantor for Commercial Area property while still owned by Grantor, no sign of any kind shall be displayed to the public view without the approval of the Architectural Control Committee, except such signs as may be used by Grantor in connection with the development of Dimond Oaks and sale of residences and lots and except such signs of customary and reasonable dimensions as set forth by the Committee as may be displayed on or from a residence advertising the residence for sale or lease. Any "for sale" or "for lease" signs not more than three (3) feet by two (2) feet shall not require Committee approval. A residential identification sign is permitted but should not exceed one (1) square foot in surface area. Numbers on residences shall be located in a position clearly legible from the street, and should be lighted to insure nighttime visibility.

11. Overnight Parking. No vehicles of any kind, including but not limited to, automobiles, trucks, buses, tractor trailers, camping vehicles, boats, boat trailers, snowmobiles, mobile homes, two and three wheeled motor vehicles, or other wheeled vehicles shall be permitted to be parked on any street within Dimond Oaks between the hour of 2 o'clock AM and 6 o'clock AM any morning.

12. No Hazardous Activities. No activities shall be conducted on any property and no improvements constructed on any property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any property and no open fires nor incinerators shall be lighted or permitted on any property except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace.

13. Repair of Buildings. No improvement upon any property within Dimond Oaks shall be permitted to fall into disrepair, and each such improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner thereof.

14. Improvements and Alterations. There shall be no excavation or construction or alteration which in any way alters the exterior appearance of any improvement within Dimond Oaks nor removal of any improvement in Dimond Oaks (other than repairs or rebuilding) without the prior approval of the Architectural Control Committee pursuant to Article II hereof.

15. Exemption of Grantor. Nothing in the Dimond Oaks restrictions shall limit the right of Grantor to complete excavation, grading and construction of improvements to any property within Dimond Oaks owned by Grantor, or to alter the foregoing or to construct such additional improvements as Grantor deems advisable in the course of development of Dimond Oaks so long as any lot remains unsold, or to use any structure in Dimond Oaks as a model home or real estate sales or leasing office. The rights of Grantor hereunder and elsewhere in these Restrictions may be assigned by Grantor.

16. Rooftop Antennas. No television, ham radio, citizens band or radio antenna or other similar electronic receiving or sending device shall be permitted upon the rooftop or side of any home or elsewhere if exposed to view from any other lot. Such antennas, if used, must be of the type that are installed within the natural building structure permitted by Article III. In no case will any such receiving or sending antenna or other device be allowed to interfere with the peace and quiet enjoyment of any neighboring lot owner's premises or home entertainment facilities or equipment.

17. Access. All travel within the development is restricted to dedicated street right-of-way. Anyone taking "short-cuts" between dedicated roads, whether paved or gravel, is trespassing either on a private lot or on a dedicated green belt. Nothing herein is to be construed as prohibiting proper use of streets and walkways.

18. Motorbikes. All motorcycles, trail bikes, three-wheel, powered devices, automobiles, two or four-wheel drive recreational type vehicles are to be operated only on established roads and streets and are specifically prohibited from all hillside areas and footpaths and walkways.

II. ARCHITECTURAL CONTROL

1. Architectural Control Committee. The Architectural Control Committee shall consist of three members to be selected by the developer, the function of which shall be to insure that all improvements and landscaping within Dimond Oaks harmonize with existing surroundings and structures. The Committee need not be composed of owners. Any communication to the Committee should be addressed to:

Architectural Control Committee
Dimond Oaks Subdivision
1869 North 2700 East
Layton, Utah 84041

unless the address is changed by written notice to the lot owners from the developer or the committee. Upon failure of the developer to fill vacancies in the committee, the remaining two members of the committee may do so. The developer may in its sole discretion remove members from the committee and fill vacancies. A majority of

the Committee may designate a representative to act for it. Neither the members of the Committee nor its designated representatives shall be entitled to any compensation for services performed under this Declaration. The Committee's approval or disapproval as required in these covenants and conditions shall be in writing. In the event the Committee, or its designated representative, fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced before completion, approval will not be required and the related covenants shall be deemed to have been fully complied with.

2. Standard. In deciding whether to approve or disapprove plans and specifications submitted to it, the Committee shall use its best judgment to insure that all improvements, construction, landscaping and alterations on lots within Dimond Oaks conform to and harmonize with existing surroundings and structures. All improvements must conform with Layton City's Foothill Ordinance #429 dated 17 November 1977 and/or the underlying RS zoning.

3. Lot Area and Width. No dwelling shall be erected or placed on any lot having a width of less than 100 feet at the point where there is proposed to be located that part of the dwelling closest to the front street, nor shall any dwelling be erected or placed on any lot having an area of less than 15,000 square feet.

4. Approval Procedure. Any plans and specifications for building upon a lot by an owner and/or builder must be submitted to the Architectural Control Committee for approval prior to commencing construction. Such approval is conditioned upon compliance with the following procedure:

- a. The owner/builder signing a Notice of Contract indicating that he has read and understood the Covenants, conditions and Restrictions;
- b. The owner/builder depositing a \$500.00 security deposit to insure compliance with the provisions of the Covenants, Conditions and Restrictions. Such deposit shall be refundable in its entirety if all provisions of the amended Covenants, Conditions and Restrictions are complied with through the completion of the home and yard.
- c. The owner/builder receiving a plot map describing such owner/builder's lot.
- d. The owner/builder submitting a site layout plan showing the following:
 - 1) The proposed home as it will be situated on the lot.
 - 2) All drives, walkways, patios, barbeques, out buildings, etc. and all related dimensions between such.
 - 3) Elevation of sewer as it relates to home elevation.
- e. The owner/builder submitting a finish-grading plan specifying the elevations of basement floors, main floors, patios, etc., indicating their relationship to the grade and contour of the particular lot.

f. The owner/builder submitting a complete set of architectural plans including:

- 1) A cross section of the proposed wall of the home indicating type of support, insulation, and exterior finish.
- 2) One complete set of all exterior colors in the form of samples or color chips, with detailed information as to the location of the color, including brick, siding, trim, roofing material, etc.

g. The owner/builder submitting a set of landscape plans for front yard (as defined herein).

h. The owner/builder selecting a driveway-to-asphalt approach plan prepared by developer.

Any subsequent changes, improvements, or alterations in such plans must be submitted to the Committee for written approval.

Any approval or disapproval must be made in writing within thirty (3) days after submission. In the event the Committee fails to take any action within such period, it shall be deemed to have approved the material submitted.

6. Excavations and Completing Improvements. No excavations shall be made on any lot except in connection with the erection, alteration, or repair of a dwelling or other improvement thereon. Once begun, any improvements, construction, landscaping, or alterations approved by the Committee must be diligently prosecuted and completed within a reasonable time.

7. No Liability for Damages. The Committee shall not be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Article II.

8. Exception for Developer. The foregoing provisions of this Article II shall not apply to any improvement, construction, landscaping, or alteration which is carried out by Developer on any lot or on any part of Dimond Oaks and which occurs at any time during the twenty (20) year period following the date on which this Declaration is filed for record in the office of the County Recorder of Davis County, Utah.

9. Developer's Obligation. With regard to development, the Developer hereby covenants in favor of each Owner: that all living units erected and all improvements of the subdivision accomplished by said developer shall be architecturally compatible with respect to one another.

III. BUILDING RESTRICTIONS

1. Building Location. The following minimum yard requirements shall apply to all living units:

- a. Front Yard. No building shall be located on any lot in Dimond Oaks nearer than thirty (30) feet to the front lot line.
- b. Side Yard. Each lot in Dimond Oaks shall have a side yard of at least twenty (20) feet on each side. (The

Architectural Control Committee will consider, where necessary, a variance on one side set back per lot in the event that natural foliage or terrain will be adversely affected by adherence to the twenty (20) foot set back, nevertheless city zoning restrictions for minimum side yards must be equalled or exceeded unless a variance is granted by the Layton City Board of Adjustors.

c. Side Yard - Corner Lots. On corner lots the side yard contiguous to the street shall not be less than thirty (30) feet in width, and shall not be used for vehicular parking except such portion as is devoted to driveway use for access to a garage.

d. Side Yard - Driveway. When used for access to a garage or parking area, a side yard shall be wide enough to provide an unobstructed twelve (12) foot paved driveway which shall have a maximum grade of 15%.

e. Side Yard - Accessory Building. An accessory building may be located on a side property line if, and only if, all of the following conditions are met:

- 1) The accessory building is located ten (10) feet or more to the rear of any main building and a minimum of one(1) feet from the side property line on the same lot or the lot adjacent to the property on which said building is being placed.
- 2) It has no openings on the side which is contiguous to the property line and is of one hour fire resistant construction on said side.
- 3) It has facilities for the discharge of all roof drainage onto the subject lot or parcel of land.

An accessory building which is more than ten (10) feet to the rear of a main building, but which does not conform to the above conditions, shall have a side yard of at least five (5) feet. All other accessory buildings shall maintain the same side yard as a main building.

f. Rear Yard. Each lot or parcel of land shall have a rear yard of not less than thirty (30) feet.

g. Rear Yard - Accessory Buildings. An accessory building may be located on the rear property line when said building:

- 1) Has no opening on the side which is contiguous to the property line and is of one hour fire resistant construction on said side.
- 2) Provides facilities to retain all roof drainage on the property on which it is located. An accessory building which does not meet the above requirements shall be located not less than five (5) feet from the rear property line.

2. Projections into Yard. The following structures may be erected on or project into any required yard:

- a. The following structures may be erected on or project into any required yard:

- 1) Fences and walls in conformance with Section 7 of this document.
 - 2) Landscape elements, including trees, shrubs, agricultural crops and other plants.
 - 3) Necessary appurtenances for utility services.
- b. The structures listed below may project into a minimum front or rear yard not more than four (4) feet and into a minimum side yard not more than two (2) feet:
- 1) Cornices, eaves, belt courses, sills, buttresses or other similar architectural features.
 - 2) Fireplace structures and bays, provided they are not wider than eight (8) feet and are generally parallel to the wall of which they are a part.
 - 3) Stairways, balconies, door stoops, fire escapes, awnings and planter boxes or masonry planters not exceeding twenty-four (24) inches in height.

3. Building Height. No lot or parcel of land in the development shall have a building or structure used for dwelling or public assembly which exceeds a height of two (2) stories. Chimneys, flagpoles, church towers and similar structures not used for human occupancy are excluded in determining height.

4. Distance Between Buildings. The distance between any accessory buildings and structures shall not cover more than forty (40) percent of the area of the lot or parcel of land.

5. Permissible Lot Coverage. The maximum impervious material coverage of accessory buildings and structures, driveways, etc. shall not cover more than thirty (30) percent of the area of the lot or parcel of land.

6. Dwelling Construction. In order to promote a harmonious community development and protect the character of the neighborhood, the following guidelines are set out:

- a. Dwelling styles, design, alterations or additions will conform to standards determined by the Architectural Control Committee.
- b. Exterior construction materials will be limited to stone veneer, brick or brick veneer, rough sawn or resawn wood siding, or stucco and shall be in earth tones indigenous to the area. White brick may also be used. Specifications regarding the color, texture, finish and quality for the above will be posted and made available by Dimond Oaks Architectural Control Committee.
 - 1) Roof. All roof vent cap louvres, plumbing stacks, chimney flashing, basketball backboards, down spouts, etc. are to be painted to match the color of the field, roof or the trim.
- c. Roof design shall be limited to a minimum of a 4/12 pitch and a maximum of 9/12 pitch. Pitch may be increased to 12/12 pitch with Architectural Control Committee approval. All roofs in the subdivision shall be of shake or bar tile construction, unless the

Architectural Control Committee specifically authorizes otherwise in writing. No asphalt shingles shall be permitted without the written approval of the Architectural Control Committee.

- d. Location of all storage or utility building, garbage refuse containers, air conditioning equipment, clothes drying lines and utility pipes, etc., must be placed at the rear of the dwelling and located on the site in such a manner as not to be conspicuous from the frontage street.
- e. Any light used to illuminate garages, patios, parking areas or for any other purposes shall be so arranged as to reflect light away from adjacent residences and away from the vision of passing motorists.
- g. Evaporative coolers shall not be allowed without the prior written approval of the Architectural Control Committee.

7. Fences.

- a. Materials. Fences or walls shall be of wood or brick. No fence or walls of chain link, wire mesh, slump block or unpainted concrete block shall be allowed.
- b. Height. Fences, walls, or hedges shall not exceed six (6) feet and shall not extend beyond the front yard set back at any point.
- c. Dimensions. No wall, fence or opaque hedge or screening materials higher than thirty-six (36) inches shall be maintained within a required front yard, except that a masonry privacy wall may be erected upon approval, if said wall does not extend more than eighteen (18) feet into the required front yard, does not exceed more than six (6) feet in height, and does not extend closer to a side property line than the forward extension of the line of the required side yard. In no case shall such a privacy wall extend into the clear vision area of a corner lot as defined by the Architectural Control Committee, nor shall it be a sight distance hazard to vehicular or pedestrian traffic.

8. Landscaping. The following landscaping provisions shall apply to Dimond Oaks:

All open areas between the front lot line and the rear line of the main buildings, except driveways, parking areas, walkways, utility areas, improved decks, patios, porches, etc., shall be maintained with suitable landscaping of plants, shrubs, trees, grass and similar landscaping materials. Within six (6) months of occupance of any home, the homeowner must have substantially completed the landscaping of his lot. Such landscaping shall include, but not be limited to, the preparation for an planting of lawn, grass or other appropriate ground cover, appropriate shrubbery and trees. Should any homeowner fail to comply with the provisions of this section, the Architectural Control Committee shall have power to obtain an order from the court or proper jurisdiction requiring specific performance or alternatively may complete the landscaping and require the homeowner to pay a reasonable amount for such completion. The amount owing shall constitute a lien on the homeowner's lot and home until such payment is made.

Upon approval and/or completion of the landscaping plan pursuant to this section, no healthy tree shall be removed, nor other major changes be made without approval of the Architectural Control Committee. However, notwithstanding this section, all diseased trees must be removed by the homeowner within a reasonable time after the diseased condition is discovered.

9. Drainage. No lot shall be graded and no structure or other obstacle shall be erected, placed or permitted to remain thereon in such a way to interfere with the established drainage pattern over the lot to and from adjoining land, or, in the event it becomes necessary to change the established drainage over a lot, adequate provision shall be made for proper drainage and must be approved by the Architectural Control Committee. Any fence or wall erected along the side or rear property line of any lot shall contain "weep holes" or be otherwise constructed so as not to prevent the flow of surface water from adjoining land where such flow is in accord with the established drainage.

10. Exterior Lamp Posts. A free-standing light fixture shall be located in the front yard of each home and shall be of such design that is compatible with the architecture of the home and approved by the Architectural Control Committee.

11. Exposed Concrete. Any exposed concrete which, in the discretion of the Architectural Control Committee, does not harmonize with the existing surroundings and structures shall be painted the color of such surroundings, covered with approved siding, or hidden from view with appropriate landscaping of the owner's choice.

IV. LOT CLEANUP AND TRASH DISPOSAL

In order to prevent any building site from becoming an eyesore during the construction phase, the following must be complied with:

1. No lot shall be used or maintained as a dumping ground for rubbish. All garbage and trash and waste material must be kept in a sufficiently large container to prevent blowing debris and unhealthy open accumulation. Containers should be emptied frequently.

2. Careful attention must be given not to pile dirt and/or material on adjacent lots or green belts. All vehicles and equipment must be kept off adjacent lots and green belts. Lot owners and/or contractors will be held responsible for all damages to adjacent lots and green belts and charged for repair of the damage. The contractor and/or lot owner will have 72 hours after notification to repair the damage or accomplish the cleanup. After that period of time, the Architectural Control Committee will make arrangements to have the damage repaired and/or the cleanup done and bill the responsible party or parties. The responsible party shall be responsible for any costs involved in legal proceedings required to collect for the damage.

3. Cement trucks should be cleaned on the building site after delivery of concrete, not on the road, right-of-way or adjacent lots.

4. Care should be taken to avoid damage to asphalt pavement and concrete curbs and sidewalks by cement trucks or other heavy

equipment and to keep such equipment from interfering with the proper drainage of the area. Builders will be held responsible for damages due to negligence in this area.

V. MISCELLANEOUS

1. Term of Restrictions. These restrictions are to run with the land permanently except that they may be changed, cancelled or added to in whole or in part by a duly recorded instrument signed by the then owners of record of a majority of the lots.

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

3. Effective Date. This Declaration and any amendment hereof shall take effect upon its being filed for record in the office of the County Recorder of Davis County, Utah.

Dimond Development, a Partnership

J. Walter Dimond
J. Larimer Dimond
General Partners

State of Utah)
 ss
County of Davis)

On the 15th day of August 1979 personally appeared before me Larimer J. Dimond and J. Walter Dimond, General Partners of Dimond Development and Developers of Dimond Oaks Subdivision, signed the foregoing instrument in behalf of said Partnership.

Shirley R. Riggins
Notary Public

Residing in: Bountiful, Utah

Commission expires: Nov. 13, 1979

