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FOR: GUARDIAN TITLE CO

Pecan Park Homeowners Association Covenants, Conditions, & Restrictions

ARTICLE 1

The following words and terms when used in this Declaration or any supplemental declaration hereto (unless the context shall clearly indicate otherwise) shall have the following meanings:

A. Articles and By-laws shall mean and refer to the Articles of Incorporation and the By-laws of the Association as they may exist from time to time.

B. Association shall mean and refer to Pecan Park Homeowners Association, its successors and assigns, and shall be a homeowners association.

C. Board shall mean the Board of Directors of the Association.

D. Common Expenses shall mean and refer to expenditures for maintenance, operation and other services required or authorized to be performed by the Association with respect to Common Property, Open Spaces, Surface Water Management Systems or Public Areas.

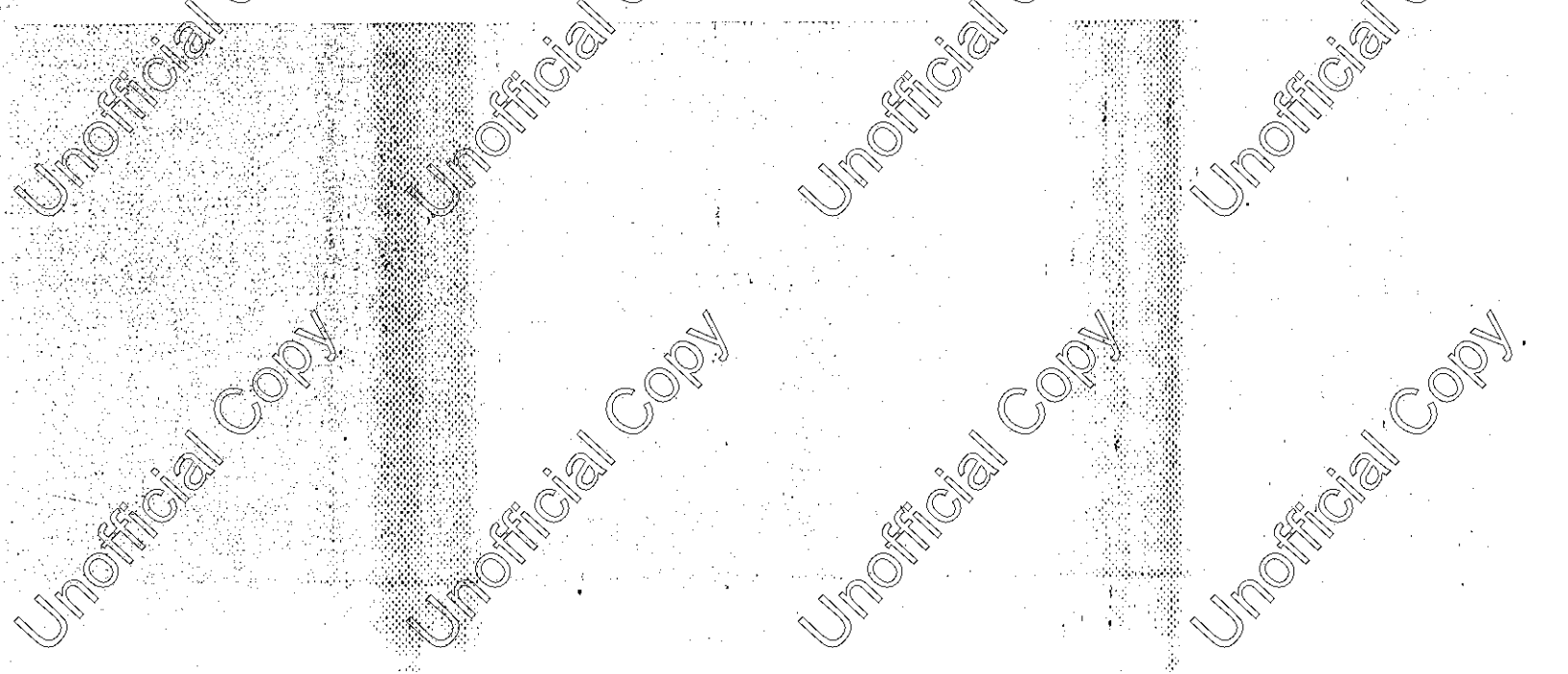
E. Common Property of Common Area shall mean and refer to those tracts of land, together with any improvements thereon, which are actually and specifically dedicated, deeded or leased to the Association and designated in said dedication, deed or lease as Common Property. The term Common Property shall also include any personal property acquired by the Association if said property is designated as Common Property in the bill of sale or instrument transferring such property. Common Property is specifically reserved for the use and benefit of members, and is an integral appurtenant part of each Lot and Residential Unit.

F. Declarant shall mean PM Dev Corp. Wherever the term Declarant is used in the Declaration, the Articles, or By-laws of the Association, it shall always be deemed to include Declarant's successors and assigns, excluding a Class A owner who has purchased Residential Units of Lots from the Declarant: but only to the extent specifically so identified by an instrument in writing executed and recorded by Declarant.

G. Declaration shall mean and refer to this Declaration of Master Covenants, Conditions, and Restrictions of Pecan Meadows - Phase IV and included the same as it may, from time to time, be amended.

H. Driveway shall mean and refer to the paved or concrete surface on a Lot running from the garage portion of the Residential Unit to the street providing access to such Residential Unit, which Driveways are to be maintained at the Lot Owners expense.

I. Eligible Insurer or Guarantor shall mean and refer to an insurer or governmental guarantor who has requested notice from the Association of those matters which such insurer or guarantor is entitled to notice of by reason of this Declaration or the By-laws.



J. Eligible Mortgage Holder shall mean and refer to a holder of a first Mortgage on a Residential Unit who has requested notice from the Association of those matters which such holder is entitled to notice of by reason of this Declaration or the By-laws.

K. Lot shall mean any parcel of land shown upon any recorded subdivision map or plat of the Properties upon which is located or in the future will be located a single-family residential dwelling.

L. Member shall mean and refer to all those Owners who are Members of the Association, as provided in Article II hereof.

M. Mortgage shall mean and refer to the deed of trust as well as a mortgage.

N. Mortgagee shall mean and refer to a beneficiary of a deed of trust as well as a mortgage.

O. Notice shall mean delivery of any document by U.S. mail with postage prepaid, certified, return receipt requested to the last known address according to the records of the Association of the person or entity who appears as Owner in the records of the Association. Notice to one of two or more CO-Owners shall constitute notice to all Owners.

P. Open Space shall mean an out-of-doors open area from the ground upward devoid of residential and commercial buildings, accessory structures and impervious areas.

Q. Owner shall mean and refer to the owner as shown by the records of the Association (whether it be the Declarant, one or more persons, firms or legal entities) of fee simple title to any Residential Unit or Lot located within the Properties. Owner shall not mean or refer to the holder of a mortgage or security deed, its successors or assigns, unless and until such holder has acquired title pursuant to foreclosure of a proceeding or deed in lieu of foreclosure; nor shall the term Owner mean or refer to any lessee or tenant of an Owner.

P. Parks shall mean lands within the Properties, title to which is held by the Association dedicated by an instrument recorded in the real property records of Washington County, Utah, as park land to be used for recreational purposes exclusively by the Members, their guest and invites, which lands shall also be designated as Common Property.

S. Properties shall mean and include the real property described in Exhibit A attached hereto, together with other real property added thereto in accordance with this Declaration.

T. Residential Unit shall mean an approved structure situated on a platted single-family Lot intended for use as a single-family dwelling located within the Properties. For the purposes of this Declaration, any such single-family dwelling shall not be deemed to be approved until a certificate of occupancy therefor has been issued by the appropriate governmental authorities.

U. Surface Water Management System shall mean that portion of the Open Space consisting of swales, channels, inlets, culverts, outfalls, storm drains, floodways and the like, and all

connecting pipes and easements, used in connection with the retention, drainage and control of surface water.

V. Turnover shall mean the transfer of operation of the Association by the Declarant as described in Article VII hereof.

W. Voting Member shall mean the Declarant as to votes allocated to the Class B member, and all other Lot Owners prior to Turnover as to the votes allocated to Class A Members. All vote allocations are as provided in Article II, Section 2, hereof.

ARTICLE II ASSOCIATION

Section 1. Membership. Every Owner, including the Declarant, shall be a Member of the Association, and by acceptance of a deed or other instrument evidencing ownership acknowledges the authority of the Board and the Association as herein stated, and agrees to abide by and be bound by the provisions of this Declaration, the Articles of Incorporation, the By-laws and other rules and regulations of the Association. In addition to the foregoing, the family guests, invitees and tenants of the Owners shall, while in or on the Properties, shall abide and be bound by the provisions of this Declaration, the Articles of Incorporation, the By-laws and other rules and regulations of the Association.

Section 2. Allocation of Voting Rights

A. Members of the Association shall be allocated votes as follows:

Class A. Class A Member shall be all Owners of Lots. Class A Members shall be allocated one vote for each Lot in which they hold the interest required for membership by Article II, Section 1 of this Declaration. As long as Declarant holds Class B status, however, Declarant shall have no Class A voting power on account of Lots it owns.

Class B. The Class B Member shall be the Declarant, or its specifically designated (in writing) successor. The Class B Member shall be allocated a number of votes equal to three times the total number of Class A votes at any time; provided, that the Class B membership shall cease and become converted to Class A membership on the happening of the following events, whichever occurs earlier:

- (a) upon voluntary conversion to Class A;
- (b) when 90% of the Lots (as amended and supplemented from time to time) have been conveyed by Declarant to other Owners.

B. Within four (4) months after the happening of the earliest of the foregoing events (a) or (b), the Declarant shall (pursuant to Article VIII) conduct a Turnover meeting for the purpose of electing directors.

When any property entitling the Owner to membership in the Association is owned of record in the name of two or more persons or entities, whether fiduciaries, joint tenants, tenants in common, tenants in partnership respecting the same property, then unless the instrument or order appointing them or creating the tenancy otherwise directs and it or a copy thereof is filed with the Secretary of the Association, such Owner shall select one official representative to qualify for voting in the Association and shall notify the Secretary in writing of the name of such individual. The vote of each individual shall be considered to represent the will of all the Owners of that property. In the circumstances of such common ownership, if the Owners fail to designate their voting representative, the Association may accept the person asserting the right to vote as the voting Owner until notified to the contrary by any of the other Owners. Upon such notification none of such Owners may vote with respect to the jointly held property until all of such Owners appoint their representative pursuant to this paragraph.

D. The voting rights of any Owner may be assigned by an Owner to its tenant (for the duration of the lease only) if the tenant has entered into a lease with a term of two (2) years or more; provided, however, that the Owner may not assign to such tenant any vote or votes not attributable to the property actually leased by such tenant. No such assignment shall be effective until written notice thereof has been received by the Association.

E. For purposes of determining voting rights hereunder the membership roster shall be set as of fifteen (15) days prior to each meeting of Members.

F. The cumulative system of voting shall not be allowed.

Section 3. Change of Membership. Change of Membership in the Association shall be established by recording in the Real Property Records of Washington County, UT, a deed or other instrument conveying record fee title to any Lot, and by the delivery to the Association of a copy of such recorded instrument. The Owner designated by such instrument shall, by acceptance of such instrument, become a Member of the Association, and the membership of the prior Owner shall be terminated. In the event a copy of the said instrument is not delivered to the Association, said Owner shall become a Member, but shall not be entitled to voting privileges enjoyed by its predecessor in interest until delivery of a copy of the conveyance instrument to the Association. The foregoing shall not, however, limit the Associations powers or privileges and the new Owner shall be liable for accrued and unpaid fees and assessments attributable to the Lot acquired. The interest, if any, of a Member in the funds and assets of the Association shall not be assigned, hypothecated or transferred in any manner except as an appurtenance to the Owners real property. Membership in the Association by all Owners shall be compulsory and shall continue, as to each Owner, until such time as such Owner of record transfers or conveys his interest in the real property upon which his membership is based or until said interest is transferred or conveyed by operation of law, at which time the membership shall automatically be conferred upon the transferee. Membership shall be appurtenant to, run with, and shall not be separated from, the real property interest upon which membership is based.

Section 4. Declarant Rights in the Association. The Declarant shall be entitled to appoint at least one (1) member of the Board of Directors of the Association (Board) for as long as Class B membership continues. During the time the Declarant is entitled to representation on the board, whether the Declarant exercises that right to appointment or not, the Board or the Association shall have no authority to, and shall not, without the approval in writing of Declarant, undertake any action which shall:

- (a) except for the hereinafter, provide signage restrictions, prohibit or restrict in any manner the sales and marketing program of the Declarant or any Owner;
- (b) decrease the level of maintenance services of the Association performed by the initial Board as specified in the Articles of Incorporation of the Association;
- (c) make any special or individual assessment against or impose any fine upon the Declarants property within the Properties or upon the Declarant;
- (d) authorize or undertake any litigation against the Declarant;
- (e) alter or amend any Declaration, any subsequent amendment thereto, the Articles or By-Laws of the Association;
- (f) except as otherwise provided herein, terminate or cancel any contracts of the Association entered into while the initial Board was in office;
- (g) terminate or waive any rights of the Association under this Declaration;
- (h) convey, lease, mortgage, alienate or pledge any easements or Common Property of the Association;
- (i) accept the conveyance, lease, mortgage, alienation or pledge or any real or personal property to the Association;
- (j) terminate or cancel any easements granted hereunder or by the Association;
- (k) terminate or impair in any fashion any easements, powers or rights of the Declarant hereunder;
- (l) restrict the Declarants right of use, access and enjoyment of any of the Properties;
- (m) cause the Association to default on any obligation of it under any contract or this Declaration.

The Declarant's consent to any of the foregoing shall be exercised by its appointee on the Board or other person designated to so act by the Declarant.

ARTICLE III

FUNCTIONS OF ASSOCIATION

Section 1. Functions. The Association shall have the power to perform the following functions:

A. The Association shall provide maintenance of all Parks, Open Space, Surface Water Management Systems, Common Property, recreation areas, where deterioration of any of the described items would adversely affect the appearance of the Properties or the operation of systems appurtenant to Pecan Park. The Association shall adopt standards of maintenance and operation required by this and other subsections within this Article III, Section 1 which are, in the judgment of the Association, at least as stringent as those adopted and/or followed by other developments similar to Pecan Park.

B. The Association shall provide maintenance of any real property located within Pecan Park, upon which the Association has accepted an easement for said maintenance.

C. The Association may provide insect, pest and aquatic control where necessary or desirable in the judgment of the Association to supplement the service provided by the state and local governments. The Association reserves a perpetual right on, over and under all Properties to dispense pesticides and take other action which in the opinion of the Association is necessary or desirable to control insects and vermin. The provisions of this paragraph shall not be construed as an obligation on the part of the Association to provide such services.

D. The Association shall have the power to take any and all actions necessary to enforce all covenants, conditions and restrictions affecting the Properties and to perform any of the functions of services delegated to the Association in any covenants, conditions or restrictions applicable to the Properties or in the Articles or By-laws.

E. The Association shall have the power to conduct the business of the Association, including but not limited to administrative services such as legal, accounting and financial, and communication services informing Members of activities, Notice of Meetings and other important events. The Association shall have the right to enter into management agreements with companies affiliated with the Declarant in order to provide its services, and perform its function.

F. The Association shall purchase general liability, flood and hazard insurance covering improvements and activities on the Common Property, if any at a current replacement cost basis, directors and officers liability and such other insurance as the Board deems necessary. The Association may additionally cause all officers or employees having fiscal responsibility to be bonded. Notwithstanding any provisions to the contrary herein, so long as the Federal National Mortgage Association (FNMA) or the Federal Home Loan Mortgage Corporation (FHLMC) holds a mortgage on a Residential Unit or owns a Residential Unit, the Association shall

continuously maintain in effect such causality and liability insurance and fidelity bonds, meeting all requirements containing such coverage and endorsements as may be required from time to time by FNMA or FHLMC as the case may be. Hazard insurance proceeds for losses to any Common Property may not be used other than for repair, replacement or reconstruction of such property unless the Association has obtained the approval of at least (i) two-thirds (2/3) of the Class A Members or the approval of the Eligible Insurers an Guarantors and Eligible Mortgage Holders holding Mortgages encumbering at least two-third (2/3) of the Residential Units, and (ii) the approval of the Class B Member (prior to Turnover).

G. The Association may adopt, publish and enforce such Rules and Regulations as the Board deems necessary.

H. The Association may construct improvements on Common Property and easements as may be required to provide the services as authorized in Section 1 of this Article.

I. In addition to maintenance herein provided, the Association may provide exterior maintenance to any Residential Unit which, in the Association opinion, requires such maintenance because such Residential Unit or structure is being maintained in a substandard manner. The Association shall notify the Owner of said Unity or Units in writing, specifying the nature of the condition to be corrected, and if the Owner has not corrected such condition with fifteen (15) days after the date of said Notice, the Association (after approval of a majority affirmative vote of the Board) may correct such condition. Such maintenance shall include but not be limited to painting, repairs, replacement and maintenance of roofs, gutters, down spouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements. The cost of such maintenance shall be assessed against the Residential Unit upon which such maintenance is performed, as provided in Article III, Section 4 hereof, and shall not be considered part of the annual maintenance assessment or charge.

J. The Association may establish use fees and promulgate rules and regulations respecting the use of Common Property and Association facilities by Members and persons other than Members.

K. The Association may carry out any of the functions and services specified in Section 1 of this Article to the extent such maintenance and services can be provided with the proceeds from annual assessments and, if necessary and appropriate, from special assessments. The functions and services allowed in Section 1 of this Article to be carried out or offered by the Association at any particular time shall be determined by the Board taking into consideration proceeds of assessments and needs of the Members. Subject to the provision of Article II, Section 4 hereof, the functions and services which the Association is authorized to carry out or provide, may be added to or reduced at any time upon the affirmative vote of a majority of the Board. The Association may provide the permitted services by contract with third parties, including agreements with applicable governmental agencies.

Section 2. Mortgage and Pledge. The Board shall have the power and authority to mortgage the property of the Association and to pledge the revenues of the Association as security for loans made to the Association which loans shall be used by the Association which loans shall be used

by the Association in performing its functions; provided, however, that the Board shall not mortgage, sell, or otherwise transfer all or any part of the Common Property unless such action shall be authorized by the affirmative vote of two-thirds (2/3) of the Class A Members and the approval of the Class B Member (prior to Turnover), cast at a duly called meeting of the Association, and unless written notice of the meeting and of the proposed agreement and action thereunder is sent a least thirty (30) days prior to such meeting to every Member entitled hereunder to vote. A true copy of such resolution together with a written statement certifying the results of the vote taken thereon shall be made and acknowledged by the President or Vice President and Secretary or Assistant Secretary of the Association and such statement or certificate shall be annexed to any instrument of dedication or transfer effecting the Common Property, prior to the recording thereof. Such certificate shall be conclusive evidence of authorization by the Members entitled to vote.

Section 3. Conveyance to Association. The Association shall be obligated to accept any and all conveyance to it by Declarant of fee simple title, easements or leases to Open Space, Parks, Surface Waters Management Systems or Common Property.

ARTICLE IV

ASSESSMENTS

Section 1. Covenant to Pay Assessment. The Declarant covenants, and each Owner of any Residential Unit or Lot shall be acceptance of a deed therefor, regardless of whether it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to all the terms and provisions of this Declaration and to pay the Association: (1) annual assessments, (2) special assessments and (3) individual assessments, all fixed, established and collected from time to time as hereinafter provided. Each such assessment, together with such interest thereon as may be provided for herein and costs of collection, shall also be the personal obligation of the person who was the Owner of such real property at the time when the assessment first became due and payable. The liability for assessments may not be avoided by waiver of (1) voting rights, or (2) the use or enjoyment of any Common Property, or (3) by the abandonment of the property against which the assessment was made. In the case of CO-ownership of a Residential Unit or Lot, all of such CO-owners shall be jointly and severally liable for the entire amount of the assessment.

Section 2. Purpose of Annual Assessments. The annual assessments levied by the Association shall be used exclusively for the improvements, maintenance, enhancement and operation of the Parks, Surface Water Management Systems and common Property and to provide services which the Association is authorized for the Parks, Surface Water Management Systems and Common Property and to provide services which the Association is authorized or required to provide including, but not limited to, the payment of taxes and insurance, construction, repair or replacement of improvements, payment of the costs to acquire labor, equipment, materials, management and supervision necessary to carry out its authorized functions, and for payment, principal, interest and any other charges connected with loans made to or assumed by the Association for the purpose of enabling the Association to perform its authorized or required functions. The Association may establish reasonably necessary reserve funds to be held in

reserve for: (a) major rehabilitation or major repairs to Common Property that must be replaced on a periodic basis; (b) emergency and other repairs required as a result of storm, fire, natural disaster or other casualty loss; and (c) insurance premiums or taxes.

Section 3. Special Assessments. In addition to the annual assessments authorized by Section 2 of this Article, the Association may levy, in any assessment year, a special assessment for the purpose of defraying, in whole or in part, the costs of any acquisition, construction or reconstruction, unexpected repair or replacement of a described capital improvements upon Common Property or easements, including the necessary 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 at a meeting duly called for that purpose.

Section 4. Individual Assessments. The Association may impose an individual assessment upon any Owner whose use or treatment of Common Areas, Residential Unit or Lot is not in conformance with the standards as adopted by the Association or which increases the maintenance cost to the Association above that which would result from compliance by the Owner with the use restriction imposed by this Declaration. The Association may also impose an individual assessment upon any Owner receiving exterior maintenance as contemplated by Article III hereof. The amount of such assessment shall be equal to such cost incurred, plus 10% of the costs for administration and may be enforced in the manner provided for any other assessment.

Section 5. Maximum Annual Assessment.

(a) During the period commencing January 1, 2002 and ending December 31, 2002, the maximum annual assessment shall be Two Hundred dollars (\$200.00) per Lot, plus amounts that may be assessed under Section 3 of this Article.

(b) From and after the expiration of the period stated in (a) above, the maximum annual assessment (as distinguished from special assessments) may be increased each year without a vote of the Class A Members by a sum not exceeding ten percent (10%) of:

(1) The maximum assessment for the previous year, adjusted to reflect price increases based on the US Governments applicable current consumer price index, plus

(2) Increases mandated by governmental agencies and/or increased costs incurred to obtain services from utility providers.

(c) From and after the expiration of the period stated in (a) above, the maximum annual assessment may be increased above the amount stated in (b) above, by a vote of two-thirds (2/3) of each class of Members who are voting at a meeting duly called for such purpose.

(d) The Board shall fix the annual assessment at an amount not in excess of the maximum described above.

Section 6. Date of commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall be due and payable in equal monthly installments on or before the 1st day of each month, commencing the month after notice of an assessment is sent by the Board to the Owners. The Board, pursuant to the By-laws, shall determine any changes in the due date or the date of commencement of the annual assessments.

Section 7. Due Date of Special and Individual Assessments. Except as otherwise expressly provided herein, the due date of any special or individual assessment under Sections 3 and 4 of this Article, respectively shall be fixed in the resolution authorizing such assessment.

Section 8. Determination of Annual Assessments. Each year, the Board shall determine the total annual assessment for the Properties, taking into consideration, among other things, the then current maintenance costs, estimated increases in maintenance costs and future needs of the Association. Annual assessments shall be allocated equally among all Lots. Written notice of any meeting of the board at which the board shall consider determination of the annual assessment or any special assessment shall be sent to all voting Members not less than thirty (30) days nor more than sixty (60) days in advance of the Board meeting. At the first such meeting called, if the required quorum is not present, another meeting of the Board may be called, subject to the same notice requirements; and if the required membership quorum is not present at such subsequent meeting, the Board shall be authorized to determine the total annual assessments or any special assessments without obtaining the approval required, if any, of the Members.

Section 9. Duties of the Board of Directors. The Board shall prepare a roster of Owners, the Lots and the Residential Units owned by each 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 be sent to every Owner subject thereto.

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

Section 10. Allocation of Assessments. The total annual assessment and special assessment set by the board for the Properties (exclusive of the individual assessments provided for in Section 4) shall be divided by the number of Lots, whether or not Residential Units have been constructed thereon. The resulting figure shall be the assessment per Lot. Class A Members shall pay the assessment per Lot for each Lot owned by such Member.

Section 11. Assessment of Declarant. Notwithstanding any provision of this Declaration or the Articles of Incorporation or By-laws to the contrary, the annual assessment imposed on any Lot owned by the Declarant shall, as long as there is Class B membership in the Association, be fixed by the board annually in an amount not less than twenty-five percent (25%), nor more than one hundred percent (100%), of the amount herein above established for Lots owned by the Class A Members; provided, however, that if the Board fixes the Class B Members annual assessment per Lot at less than that fixed for Class A Members, the Class B Member shall be liable for any

operating deficit of the Association during the period of such lesser assessment up to a maximum of the amount Declarant and provided further that in no event shall the Class B Member be required to contribute additional funds required due to any owners default in payment of assessment or any losses on account of fire or other casualty or taking by eminent domain, nor shall the Class B Member have any liability for the negligence or tortious acts of any Member, employee or agent of the Association. Upon termination of Class B membership in the Association as herein above provided, the annual assessment against any Lot owned by Declarant shall be one hundred percent (100%) of the amount herein above established against Lots owned by Class A Members. After the Class B membership has been terminated, Declarant shall have no liability for operating deficits of the Association. Upon transfer of title of a Declarant-owned Lot or Residential Unit, such Lot or Residential Unit shall be assessed in the amount established against Lots owned by the Class A Members of the Association, prorated as-of, and commencing with, the month following the date of transfer of title.

Section 12. Effect of Nonpayment of Assessment: The Personal Obligation of the Owner: The Lien: Remedies of Association. If any of the assessments set forth in this Article VI or any other Article of this Declaration are not paid on or before the due date, the entire aggregate amount of such unpaid assessments shall, together with the interest thereon and costs of collection thereof as hereinafter provided, be deemed delinquent and in default and shall be a charge and continuing lien on the Lot and Residential Unit of the Owner against whom each such assessment is made, such Owners heirs, devisees, personal representatives and assigns. The obligation to pay such assessments, together with interest thereon and costs of collection, however, shall remain a personal obligation of the Owner of such Lot or Residential Unit at the time when the assessments fell due, notwithstanding that such Lot or Residential Unit may be sold or otherwise transferred. The Association may record a notice of lien for delinquent assessments in the public records and foreclose the lien in the same manner as a mortgage. The lien shall not be valid against subsequent bona fide purchasers or mortgages for value unless so recorded. Upon recording, the lien shall secure the amount of delinquency stated therein and all unpaid assessments thereafter until satisfied of record.

If the assessments are not paid within thirty (30) days after the delinquency date, a late charge equal to five percent (5%) of the assessment shall be due and payable and the assessments (but not the late charge) shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, simple interest (but not to exceed the maximum charge permitted under applicable law), and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, or both, and there shall be added to the amount of such assessments 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 attorneys fee to be fixed by the court together with the costs of the action.

Section 13. Subordination of the Lien. The lien of the assessments provided for herein is subordinate to the lien of any first Mortgage now or hereafter placed upon a Residential Unit or Lot and to any easement of record prior to the date of recordation of this Declaration affecting any of the Properties and sale or transfer of any Residential Unit or Lot pursuant to judicial or nonjudicial foreclosure shall extinguish the lien of such assessment as to payments which became

due prior to such sale or transfer. Such sale or transfer shall relieve such property from liability for any assessments thereafter becoming due, however, nor from the lien of any such subsequent assessment. A first Mortgagee, upon request, shall be entitled to written notification from the Association of any default of any Owner of any obligation hereunder which is not cured within sixty (60) days. The Association may provide such notice without receiving a request from the institutional mortgagee. Mortgagees are not required, under any circumstance, to collect assessments and failure of an Owner to pay an assessment shall not constitute a default under an insured mortgage.

Section 14. Additional Consequences of Nonpayment of Assessment. In the event that any of the assessments set forth in this Declaration are deemed delinquent and in default pursuant to Section 9 hereof, then, during the period of such default and delinquency, and for so long as may such assessment, together with interest thereon and costs of collection thereof, remain due with interest thereon and costs of collection thereof, remain due and unpaid, the Association may (1) suspend the voting rights, and (2) suspend any rights of use of Common Areas. The liability for assessments may not be avoided by the waiver of suspension of (1) voting right, (2) the use and enjoyment of common areas, or by abandonment of the property against which the assessment was made.

Section 15. 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 the local public authority and devoted to public use; (b) all Common Property as defined in Article I hereof; (c) all property dedicated for recreational use by Declarant or the Association; (d) Property designated as Parks or which is used in the Surface Water Management Systems.

Section 16. Costs of Collection. The Association shall be entitled to its costs of collection and attorneys fees from any Owner against whom an assessment must be enforced.

ARTICLE V

RESTRICTIONS AND COVENANTS

Section 1. Compliance by Owners: Restrictions and Covenants. Every Owner shall comply with the restrictions and covenants set forth herein and any and all rules and regulations adopted by the Board. The following are the initial Restrictions and Covenants of Pecan Park which may be amended, modified or added to from time to time as provided in the By-laws:

A. Residential Use. Pecan Park, subject to this Declaration, shall be used for single-family residential purposes and related recreational facilities only and for no other purposes. Notwithstanding anything herein to the contrary, upon the approval of the Declarant, Declarant and any Lot Owner shall be able to build and maintain sales models and offices until such time as the last parcel in Pecan Park is sold by Declarant or other Lot Owners. Uses which do not conform to the applicable provisions of the applicable zoning ordinances, if any, will not be permitted.

B. Leasing. Each Owner shall have the right to lease his Residential Unit, provided that such lease is in writing and provides that the tenant shall be bound by and obligated to the provisions of this Declaration, the By-laws and the rules and regulations of the Board, and that the failure to comply with the provisions of these documents shall be a default under the lease. Any Owner desiring to lease or rent his Residential Unit shall deliver to the Board (a) a written notice expressing such intention, and (b) a copy of the proposed lease or rental agreement at least three (3) days prior to the date such a lease or rental agreement is to become effective or binding upon the parties thereto. With the exception of a lender in possession of a Residential Unit following a default under a first mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no Owner shall lease his Residential Unit for transient or hotel purposes. Any lease which is either for a period of less than thirty (30) days or pursuant to which the lessor provides any services normally associated with a hotel shall be deemed to be for transient or hotel purposes.

Any Owner who shall lease his Residential Unit shall be responsible for assuring compliance by such Owner's lessee with this Declaration, the Articles and the By-laws. Failure of an Owner to take legal action, including the institution of proceedings and unlawful detainer against his lessee who is in violation of this Declaration, the Articles or the By-laws within ten (10) days after receipt or written demand to do so from the Board, shall entitle the Association, through the Board, to take any and all such action, including the institution of proceedings and unlawful detainer on behalf of such Owner against his lessee. Any expense incurred by the Association, including attorneys fees and costs of suit, shall be repaid to it by such Owner. Failure by such Owner to make such repayment within ten (10) days after receipt of written demand therefor shall entitle the Board to levy a special assessment against such Owner and his Residential Unit for all such expenses incurred by the Association. In the event such special assessment is not paid within thirty (30) days of its due date, the Board may resort to all remedies of the Association for the collection thereof.

C. Insurance. Nothing shall be done or kept on the Properties which shall increase the rate of insurance on any Lot, any Residential Unit, or the Common Areas without the approval of the Board, nor shall anything be done or kept on the Properties which would result in the cancellation of insurance on any Residential Unit, or any part of the Common Areas or which would be in violation of any law.

D. Temporary Buildings. No tents, trailers, mobile homes, vans, shacks, garage apartments, tanks or temporary or accessory buildings or structures shall be placed, erected or permitted to remain on the Properties; provided, however, the foregoing shall not restrict or prevent the construction and maintenance of temporary sales models and such other temporary facilities as are essential to the development, construction and sale of the housing facilities constructed or to be constructed on any of the Lots provided that such are in compliance with applicable governmental requirements.

E. Trash and Garbage. No lumber, metals, building materials, refuse or trash shall be kept, stored or allowed to accumulate on the Properties except building materials during the course of construction of any approved structure; provided, however, that no unnecessary accumulation of scrap, trash, papers or other refuse in connection with such construction activity shall be

permitted and all construction sites shall be regularly policed and kept neat and orderly to the extent reasonably possible. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers may be placed in the open on any day that a pickup is to be made at such place as will be accessible to persons making such pickup. At all other times, such containers shall be stored so that they cannot be seen from surrounding property. There may be an adoption and promulgation of reasonable rules and regulations relating to the size, shape, color and type of containers permitted and the manner of storage of the same.

F. Burial of Pipe and Tanks. No water pipe, gas pipe, sewer pipe, drainage pipe or storage tank shall be installed or maintained on the Properties above the surface of the ground, except hoses and movable pipes used for irrigation purposes. No property shall be used for the purpose of boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth; provided, however, that nothing contained herein shall prohibit or restrict removal of fill or earth materials to construct or create approved drainage structures or landscaped berms.

G. Nuisance. Nothing shall be done on the Properties which is illegal or which may be or may become an annoyance or nuisance to the neighborhood. In the event of any questions as to what may be or become a nuisance, such questions shall be submitted to the Association for a decision in writing and its decisions shall be final.

H. Weeds and Underbrush. No weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon the Properties and no refuse pile or unsightly objects shall be allowed to be placed or permitted to remain anywhere thereon. In the event an Owner shall fail or refuse to keep his Lot of Residential Unit free of weeds, underbrush, sight obstruction, refuse piles or other unsightly growths or objects, then the Association may enter upon said property and remove the same at the expense of the Owner, and such entry shall not be deemed a trespass; except, however, that the Owner shall be given 15 days prior written notice of such action.

I. Vehicle Parking. No truck larger than 3/4 ton rated capacity, bus, boat, or trailer shall be parked in the street in front of any Lot except for construction and repair while a residence or residences are being built or repaired in the immediate. No unregistered or inoperable motor vehicle or trailer of any kind may be disassembled, serviced, repaired or stored on any street in Pecan Park or on any of the Properties.

J. Clothes Drying Area. No portion of any of the Properties shall be used as a drying or hanging area for laundry of any kind unless the area is fully screened, by fencing or landscaping, from view from adjacent property or streets.

K. Shutters and Aerials. Without express prior written consent, no exterior radio, television, dish antenna or other antenna or device for sending or receiving radio, TV or other electromagnetic signals may be erected or maintained in Pecan Park except that a master antenna system or systems may be constructed and maintained by the Association or its designee.

L. Drainage. No changes in elevations of property subject to these restrictions shall be made without express written approval. No established drainage pattern within an area designated as a

drainage easement shall be altered without written approval of the Association and the City of Hurricane.

M. Underground Wires. No lines or wires for communication or the transmission of electrical current shall be constructed, placed or permitted to be placed on any of the Lots unless the same shall be underground, or unless specifically permitted in writing.

N. Animals. No horses, cattle, swine, goats, poultry, fowl or any other animals not commonly considered household pets shall be kept on the Properties. Under no circumstances shall any commercial or business enterprises involving the breeding, use, care or treatment of animals be constructed on the Properties. All pets shall be kept on a leash when not on or in the pet owners Lot or Unit and no pet shall be allowed to roam unattended. The Association may, from time to time, publish and impose reasonable regulations setting forth the type and number of animals that may be kept on the Properties.

O. Business. No manufacturing, trade, business, commerce, industry, profession or other occupation whatsoever will be conducted or carried on upon the Properties or in any building or other structure erected thereon.

P. Maintenance of Parking Areas, Etc. All setback areas, yards, walkways, Driveways, parking areas and drainage swells shall be maintained and kept in an neat and clean condition, free of refuse and debris.

Q. Maintenance of Landscaped Areas. All landscaped areas (to the paved public right-of-way) shall be maintained in live, healthy and growing condition, properly watered and trimmed. Any planting of grass, shrubs or trees which become dead or badly damaged shall be replaced with similar, sound, healthy plant materials.

R. Maintenance of Landscaping to Public Right-of-way Edge. Any Owner within the Properties that owns or has the maintenance responsibility for property adjoining any public right-of-way shall maintain the landscaping to the public right-of-way regardless of the property boundaries on the plat.

S. Cable vision. The Declarant (or its successor or assigns) shall have the right to install a cable vision system providing cable vision entertainment, business and safety services. In connection with the installation, maintenance and operation of such systems, Declarant reserves access, installation and service easements over across and under Common Property and Lots necessary to provide such cable vision serviced to all Owners of Residential Units, provided, however, such easements shall be reasonably located by the Declarant so as to not unreasonably impair the value of use of the Lots or Residential Units.

T. Fences. The composition, location and height of fences and walls must be approved prior to installation.

U. Mailboxes. No mailbox or paper box or other receptacles of any kind for use in the delivery of mail or newspapers or magazines or similar material shall be erected on any Lot. Mailboxes will be erected by the United States Postal Service.

V. Trees. Removal of existing trees and shrubbery (as distinguished from brush and undergrowth) from any Lot shall not be permitted (except within the foundation perimeter line for the dwelling) unless landscaping of an equivalent or higher quality is substituted thereof, and written approval granted.

W. Air Conditioners. No window air conditioning units shall be permitted. Permanently mounted wall air conditioning units shall not be permitted.

X. Signs. No sign of any kind shall be displayed to the public view on any Lot or Residential Unit, except those conforming to applicable City of Hurricane codes and ordinances. Notwithstanding anything contained herein to the contrary, any Lot Owner shall be entitled to display to the public view, on any Lot or Residential Unit, signs with a maximum dimension of three (3) square feet for the purpose of marketing and sales of such Lot or Residential Unit.

Y. Lighting. No exterior lighting fixtures shall be installed on any Residential Unit without adequate and proper shielding of fixtures. No lighting fixture shall be installed that may be or become an annoyance or a nuisance to the other residents of Residential Units.

Z. Storm-water. No structure, fence or landscaping that interferes with the flow or detention of storm water shall be permitted and no refuse shall be placed upon or allowed to remain on any part of any Lot within any easement area for storm water drainage or detention, and the storm water drainage and retention areas, including drainage swells or detention ponds, shall not be filled or otherwise changed so as to alter or block the flow or the quantity of water. Owners of Lots within which any easement for storm water drainage or detention lines are located shall be responsible for the maintenance of such areas to permit the flow and detention of water in accordance with the storm water drainage and detention system plan required and approved by the City of Hurricane. If any Owner shall fail to comply with any part or all of the restrictions contained in this Section, the Association shall notify the Owner in writing, shall have the right to correct such failure to comply herewith, and to assess and to collect the cost thereof and shall have a lien upon the Residential Unit upon which the work was performed.

Section 2. Liability for Damage to Common Property. Each Owner shall be legally liable to the Association for all damages to the Common Property or to any improvements thereof or thereto, including, but not limited to, the buildings, recreational facilities and landscaping, caused by such Owner, his pet(s) his licensee(s) or any occupant of such Owners Residential Unit, as such liability may be determined under Utah Law.

Section 3. Enforcement. Failure of the Owner to comply with the restrictions, covenants or rules and regulations set forth herein shall be grounds for action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof, including costs and attorneys fees incurred in bringing such actions, and if necessary, costs and attorneys fees for appellate review. The Association shall have the right to enforce the

provisions of the Declaration and to suspend voting rights and use of Common Areas for any Owner violating the provisions hereof for a period of time which is the longer of sixty (60) days or the term of continued violation.

Section 4. Fines. In addition to all other remedies, in the sole discretion of the Board of the Association, a fine or fines may be imposed upon an Owner for failure on an Owner, his family, guests, invitees, tenants or employees to comply with any covenant, restriction, rule or regulation, contained herein or promulgated pursuant to these Declarations provided the following procedures are adhered to:

A. **Notice.** The Association shall notify the Owner of the infraction or infractions. Included in the notice shall be date and time of the next Board meeting at which time the Owner may, if he so desires, present reasons why penalty/penalties should not be imposed.

B. **Hearing.** The noncompliance shall be presented to the Board after which time the Board shall hear reasons why penalties should not be imposed. A written decision of the Board shall be submitted to the Owner by no later than twenty-one (21) days after the Board's meeting.

C. **Penalties.** The Board may impose fines in the form of individual assessments against the Residential Unit of Lot owned by the Owner as follows:

- (1) first noncompliance or violation: a fine not in excess of One Hundred Dollars (\$100.00);
- (2) second noncompliance or violation: a fine not in excess of Five Hundred Dollars (\$500.00);
- (3) third and subsequent noncompliance, or violation or violations that are of a continuing nature: a fine not in excess of One Thousand Dollars (\$1,000.00) for each week of continued violation or noncompliance.

D. **Payment of Penalties.** Fines shall be paid not later than thirty (30) days after notice of the imposition or assessment of the penalties.

E. **Collection of Fines.** Fines shall be treated as an assessment otherwise due to the Association, and as such will be lien against the Owners Lot.

F. **Application of Penalties.** All moneys received from fines shall be allocated as directed by the Board.

G. **Nonexclusive Remedy.** These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; however, any penalty paid by the offending Owner shall be deducted from or offset against any damages that the Association may otherwise be entitled to recover by law from such Owner.

ARTICLE VI**TURNOVER**

Section 1. Time of Turnover. The Turnover of the Association by the Declarant shall occur at the time as specified in Article II, Section 2 hereof.

Section 2. Procedure of Calling Turnover Meeting. No more than sixty (60) days and no less than thirty (30) days prior to the Turnover meeting, the Association shall notify in writing all Class A members of the date of the Turnover meeting.

Section 3. Procedure for Meeting. The procedure for the election and Turnover meeting shall be conducted in accordance with the most recent revision of Roberts Rules of Order.

Section 4. Declarants Rights. For as long as the Declarant shall own any of the Properties, it shall have the right to appoint one (1) member of the Board and the limitations described in Article II, Section 4 shall remain applicable.

ARTICLE VII**CABLE TELEVISION**

The Board of Directors of the Association shall have the right to enter into contracts for the exclusive provision of cable television services upon such terms as the Board of Directors shall deem, in its sole discretion, to be in the best interests of the Association and all Owners within the Properties. The agreement may provide that basic services shall be mandatory for all Residential Unit Owners within the Properties.

No Owner shall place or allow to be placed on the Properties any multiparty use radio, TV or other electromagnetic receivers or transmitters, dish antenna or similar devices without express prior written consent.

ARTICLE VIII**SPECIAL RESTRICTIONS**

Section 1. Special Approvals. Notwithstanding anything contained herein to the contrary, unless at least sixty-seven percent (67%) of the first Mortgagees of Mortgages encumbering Residential Units (based upon one vote for each Mortgage) have given their prior written approval, neither Owners nor the Association shall:

(a) Seek, by act or omission to abandon this Declaration or change, waive or abandon any scheme of regulation of enforcement thereof;

(b) change the prorated interest or obligations of any Residential Unit for purposes of levying assessments or allocating distributions of hazard insurance proceeds or condemnation awards or for determining the prorated share of the Common Property appurtenant to each Residential Unit;

(c) Partition or subdivide any Residential Unit;

(d) Seek, by act of omission, to abandon, partition, subdivide, encumber, sell or transfer the Common Property; provided, however, that the granting of easements for public utility or other public purposes consistent with the uses of the Common Property shall not be deemed a transfer within the meaning of this provision;

(e) Use hazard insurance proceeds for losses to any portion of the Properties other than the repair, replacement or reconstruction of the Properties, except as may be provided by statute upon substantial loss to the Residential Units or Common Property, respectively; or

(f) Fail to maintain fire and extended coverage insurance on the Common Property on a current replacement cost basis.

Section 2. Restoration or Repair. Any restoration or repair of the Properties, or any portion thereof, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the original plans and specifications, unless other action is approved by Eligible Mortgage Holders of first Mortgages on Residential Units which have at least fifty-one percent (51%) of the votes of Residential Units subject to Mortgages held, insured or guaranteed by Eligible Mortgage Holders and Eligible Insurers or Guarantors.

Section 3. Notice. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the number or address of the Lot, any eligible Mortgage Holder, Eligible Insurer or Guarantor will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Properties or any Residential Unit on which there is a first Mortgage held, insured or guaranteed by such Eligible Mortgage Holder, Eligible Insurer or Guarantor, as applicable;

(b) Any delinquency in the payment of assessments or charges owed by an Owner of a Lot Residential Unit subject to a first Mortgage held, insured or guaranteed by such Eligible Mortgage Holder, Eligible Insurer or Guarantor, which remains uncured for a period of sixty (60) days;

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

(d) Any proposed action which would require the consent of a specified percentage of Eligible Mortgage Holders as may be required in the By-laws or in this Declaration.

ARTICLE IX**DAMAGE, DESTRUCTION AND CONDEMNATION OF COMMON PROPERTY**

Section 1. Casualty. If any portion of the Common Area is damaged or destroyed by fire or other casualty, then:

(a) If the cost of repairing or rebuilding does not exceed the amount of available insurance proceeds by more than five percent (5%) of the budgeted gross expenses of the Association for the fiscal year during which the repairs or rebuilding is necessitated, the Board shall thereupon contract to repair or rebuild the damaged portions of the Common Area substantially in accordance with the original plans and specifications thereof;

(b) If the cost of repairing or rebuilding exceeds the amount of available insurance proceeds by more than five percent (5%) of the budgeted gross expenses of the Association for the fiscal year during which the repairs or rebuilding is necessitated, and if the Owners holding an aggregate of more than fifty percent (50%) interest in the Common Area agree to the repair and restoration of the Properties, then the Board shall contract as provided in (a) above.

(c) If said Owners do not so agree to the repair or rebuilding of the Common Area, then each Owner (and his Mortgagee(s) as their respective interests shall then appear) shall be entitled to receive that portion of insurance proceeds as are equal to the proportion of the decrease in fair market value of his Residential Unit as compared to the aggregate decrease in fair market value of all the Residential Units caused by such damage or destruction. For the purposes hereof, fair market value shall be determined by an MAI appraiser selected by the Board, hired by and at the expense of the Association. Should dispute arise as to the distribution of insurance proceeds, the dispute shall be decided by arbitration by the American Arbitration Association pursuant to its Commercial Rules of Arbitration.

(d) If a bid to repair or rebuild is accepted, the Board shall levy a special assessment against each Residential Unit in the proportion the Residential Units are assessed, pursuant to the provision of this Declaration, for the purposes of raising funds for the rebuilding or major repair of a portion of the Common Area to make up any deficiency between the total insurance proceeds and the contract price for such repair and rebuilding, and such assessment and all insurance proceeds, whether or not subject to liens of Mortgagee, shall be paid to the account of the Association to be used for such rebuilding.

Section 2. Condemnation. If any portion of the Common Area is taken by condemnation, eminent domain or any proceeding in lieu thereof, and the award therefore is not apportioned among the Owners and their Mortgagees, as their respective interests then appear, by court judgment or by agreement between the condemning authority and each of the affected Owners, then the Owners and their Mortgagees, as their respective interests then appear, shall be entitled to receive a distribution from the award for such taking in the same proportion as insurance proceeds would be distributed pursuant to subparagraph (c) of Section 1 above; provided, however, that should it be determined to repair or rebuild any portion of the Common Area, such proceeds shall be paid to the Association for that purpose in the same manner and subject to the

same terms, conditions and limitations as are set forth above in Section 1 of this Article IX for repairing damaged or destroyed portions of the Common Area. The decision to repair or rebuild shall be made in the same manner and subject to the same conditions and limitations as provided above in Section 1 of this Article for determining whether to rebuild or repair following damage or destruction.

Section 3. Insurance. The Association shall obtain and continue in effect adequate liability, flood and hazard insurance on property owned by the Association and may cause all officers or employees having fiscal responsibilities to be bonded; notwithstanding any provisions to the contrary herein, so long as the FNMA or FHLMC, as the case may be. Insurance premiums for the required insurance coverage and fidelity bonds shall constitute a Common Expense and shall be funded by assessments.

ARTICLE X

DAMAGE, DESTRUCTION AND CONDEMNATION OF RESIDENTIAL UNITS

Section 1. Damage and Destruction. In the event of damage or destruction to any Residential Unit, the Owner thereof shall reconstruct the same as soon as reasonably practical and substantially in accordance with the original plans and specifications thereof.

Section 2. Condemnation. In the event of any total taking of a Residential Unit, the Owner (and his Mortgagees as their interest may appear) of the Residential Unit shall be entitled to receive the award for such taking and after acceptance thereof, he and his Mortgagee shall be divested of all further interest in the Properties if such Owner shall vacate his Residential Unit as the result of such taking. In such event such Owner shall grant his remaining interest in the common Area appurtenant to the Residential Unit so taken, if any, to the other Owners owning a fractional interest in the same Common Area, such grant to be in proportion to the fractional interest in the Common Area then owned by each.

ARTICLE XI

Section 1. Duration. The covenants, conditions and restrictions of this Declaration shall run with the land the Properties, and shall inure to the benefit of and be enforceable by the Association, the Declarant and any Owner, their respective legal representatives, heirs, successors and assigns, for a period of thirty (30) year period this Declaration is recorded. Upon the expiration of said thirty (30) year period this Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods hereunder shall be unlimited with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year period for an additional ten (10) year period; provided, however, that this Declaration may be terminated and released at any time upon the vote of, two-thirds (2/3) of the votes cast by each class of Members at a duly held meeting of Members. It shall be required that written notice of any meeting at which such proposal to terminate this Declaration is to be

considered, setting forth the fact that such a proposal will be considered, shall be given at least sixty (60) days advance of said meeting. In the event that the Association votes to terminate this Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the resolution of termination adopted by the Association, the date of the meeting of the Association at which such resolution was adopted, the date that notice of such meeting was given, the total number of votes of Members of the Association, the total number of votes required to constitute a quorum to adopt a resolution terminating this Declaration, the total number of votes cast in favor of such resolution, and the total number of votes cast against such resolution. The certificate shall be recorded in the Public Records of Washington County, UT, along with a copy of the resolution itself, and may be relied upon for the correctness of facts contained therein as they relate to the termination of this Declaration.

Section 2. Amendments by Member. After the Turnover date this Declaration may be amended at a regular or special meeting of the Members by a vote of at least sixty-seven percent (67%) of the total allocated voting power of the Class A Members of the Association. Prior to the Turnover date any such amendment shall also require the written approval of the Declarant as provided in Article II, Section 4, above. Notwithstanding anything contained herein to the contrary, no material amendment to this Declaration shall be made without additionally obtaining the prior written approval of the Eligible Mortgage Holders whose Mortgages encumber 51% or more of the Residential Units. Material Amendment shall mean, for the purposes of the Article, any amendments to the provisions of these By-laws governing any of the following subjects:

- (a) The fundamental purpose for which the Association was created (such as a change from residential use to a different use);
- (b) The manner of calculating and imposing assessments, assessment liens and subordination thereof;
- (c) Reserves for maintenance, repair and replacement of the Common Area;
- (d) Responsibility for maintenance and repair;
- (e) Reallocation of interests in the Common Area, or rights to its use;
- (f) Boundaries of any Lot or Residential Unit;
- (g) Convertibility of a Lot into Common Area or vice versa;
- (h) Expansion or contracting of the Properties, or the addition, annexation or withdrawal of property to or from the Properties;
- (i) Casualty, liability insurance and fidelity bonds;
- (j) Leasing of Residential Units;

(k) Imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey his Residential Unit;

(l) Restoration or repair of the Properties, or any part thereof, in the event of damage or destruction, in a manner other than that specified in these By-laws or the Declaration;

(m) Any action to terminate the legal status of the Association after substantial destruction or condemnation occurs;

(n) Any provision which, by its terms, is specifically for the benefit of first Mortgagees or specifically confers rights on first Mortgagees.

(o) Any decision by the Association to establish self management when professional management has been required previously by an Eligible Mortgage Holder.

When Members are considering termination of the legal status of the Association for reasons other than substantial destruction or condemnation of the Properties or any portion thereof, the Eligible Mortgage Holders whose Mortgages encumber 67% or more of the Residential Units must approve. Notice shall be given at least sixty (60) days prior to the date of the meeting at which such proposed amendment is to be considered. If any proposed amendment to this Declaration is approved by the Members as set forth above, the President and Secretary of the Association shall execute an Amendment to this Declaration which shall set forth the amendment, the effective date of the amendment, the date of the meeting of the Association at which such amendment was adopted, the date that notice of such meeting was given, the total number of votes required to constitute a quorum at a meeting of the Association, the number of votes cast for the amendment and the total number of votes cast against the amendment. Such amendment shall be recorded in the Real Property Records of Washington County, Utah.

Section 3. FHA/VA Approval. As long as there is a Class B membership, and so long as the Declarant wished to maintain its FHA/VA approved status, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, mortgaging or dedication of Common Area, amendment of this Declaration, the Articles of Incorporation or By-laws and dissolution of the Association.

Section 4. Special Exceptions and Variations. Unless the written consent of the Association is first obtained, no Owner shall file a request for zoning variations, special exceptions or zoning changes affecting or relating to land within the Properties.

Section 5. Surface Water Management System. All drainage canals, drainage retention/detention ponds and drainage structures located in and among the Properties are part of the overall drainage plan for Pecan Meadows, Phase IV. Consequently, no Owner shall utilize in any way, any of such drainage facilities or incorporate such facilities in the Owners development plans, without the express prior written consent of the Declarant and the Association.

Section 6. Power of Attorney. The Association is hereby granted an irrevocable power of attorney to represent the Owners in any proceedings, negotiations, settlements or agreements relating to the damage, destruction or condemnation of the Common Property or Residential Units.

Section 7. Certain Rights of First Mortgagees. First Mortgagees of Residential Units may (i) jointly pay taxes or other charges that are in default and that may have become charges against the Common Property, or any portion thereof, and (ii) pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage for the Common Property in case of lapse of a policy. First Mortgagees making such payments are due immediate reimbursement from the Association.

Section 8. Enforcement. Enforcement of the covenants, conditions and restrictions contained in this Declaration shall be by any proceeding at law or in equity and may be instituted by the Declarant, its successors or assigns, the Association, its successors or assigns, or any Owner against any person or persons violating or attempting to violate or circumvent any covenant, condition or restriction, either to restrain violation or to recover damages, and to enforce any lien created by this Declaration. Failure by the Association or any Owner to enforce any covenant, condition or restriction herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to enforce same thereafter.

Section 9. Severability. Should any covenant, condition or restriction herein contained, or any Article, Section, Subsection, sentence, clause, phrase or term of this Declaration be declared to be void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

Section 10. Interpretation. The Board shall have the right, except as limited by any other provisions of this Declaration or the By-laws to determine all questions arising in connection with this Declaration and to construe and interpret its provisions, and in its good faith determination, construction or construction that will best end toward furthering the interests of the Owners in creating and maintaining an attractive healthful, pleasant development.

Section 11. Authorized Action. All actions which the Association is allowed to take under this instrument shall be authorized actions of the Association as approved by the Board in the manner provided for in the By-laws, unless the terms of this instrument provide otherwise.

Section 12. Termination of Declaration. Should the Members of the Association vote not to renew and extend this Declaration as provided for herein, all Common Property owned by the Association at such time shall be transferred to another association or appropriate public agency having similar purposes. If no other association or agency will accept such property then it will be conveyed to a trustee appointed by a Court of competent jurisdiction, which trustee shall sell the Common Property free and clear of the limitations imposed hereby, upon terms established by such Court. That portion of the Open Space or Common Property consisting of the Surface Water Management System cannot be altered, changed or sold separate from the lands it serves.

The proceeds of such a sale shall first be used for the payment of any debts or obligations constituting a lien on the Common Property, then for the payment of any obligations incurred by the trustee in the operation, maintenance, repair and upkeep of the Common Property. The excess of proceeds, if any, from Common Property shall be distributed among Owners in a proportion which is equal to the proportionate shares of such Owners in Common Expenses.

Section 13. Execution of Documents. To the extent that any documents are from time to time required of the Owners, the Board, through its duly authorized officers, may, as the agent or the attorney-in-fact for the Owners, execute, acknowledge and deliver such documents after approval thereof by the requisite number of Owners at a duly called meeting, and the Owners, by virtue of their acceptance of deeds, irrevocably nominate, constitute and appoint the Board as their proper and legal attorneys-in-fact for such purpose. Such appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section shall recite that it is made pursuant to this Section.


Section 14. Prohibited Actions. Notwithstanding anything contained herein to the contrary, the Association will perform no act nor undertake any activity which will violate its nonprofit status under applicable state or federal law.

Section 15. Singular, Plural and Gender. Whenever the context so permits, the use of the singular shall include the plural and the plural shall include the singular, and the use of any gender shall be deemed to include all genders.

Section 16. Constructions. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of the Properties.

NOTICE: Any actions described in this Declaration which may be taken by an Owner with or without the approval of the Declarant, the Association or the Board may additionally require the consent of the City of Hurricane or other applicable governmental authority. Check with all such governmental bodies and authorities and review all applicable laws, ordinances, codes, rules, and regulations prior to undertaking any such actions.

IN WITNESS WHEREOF, the Declarant has executed this Declaration this 1st day of July, 2002.



Donald N. Stratton, President PM Dev Corp., Declarant



STATE OF UTAH)
 : Ss.
COUNTY OF WASHINGTON)

I, Michael T. Madsen, a Notary Public, hereby certify
that on the 1st day of July, 2002, Donald N. Stratton
appeared before me who, being by me first duly sworn, severally
declared that he is the person who signed the foregoing document
as President and that the statements therein contained are true.

DATED this 1st day of July, 2002

Michael T Madsen
NOTARY PUBLIC
Residing at: St. George, UT

My Commission Expires:
12-6-2005

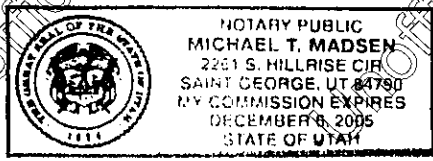


EXHIBIT-"A"

All of PECAN MEADOWS - PHASE 4, according to the Official Plat thereof, on file in the Office of the Recorder of Washington County, State of Utah

(For reference purposes only: Tax Parcel No. H-3-1-34-3300)

Unofficial Copy