

WHEN RECORDED RETURN TO:  
James R. Blakesley  
Attorney at Law  
2595 East 3300 South  
Salt Lake City, Utah 84109

7448817  
08/23/1999 10:31 AM 22.00  
NANCY WORKMAN  
RECORDER, SALT LAKE COUNTY, UTAH  
JAMES R. BLAKESLEY  
2595 E 3300 S 3RD FLOOR  
SLC UT 84109  
BY: JLP, DEPUTY - WI 6 p.

7448817

FIRST AMENDMENT TO AMENDED AND RESTATED DECLARATION  
OF  
CONDOMINIUM  
OF  
OAK CREST GARDENS

This FIRST AMENDMENT to the AMENDED AND RESTATED DECLARATION OF CONDOMINIUM OF OAK CREST GARDENS is made and executed by the OAK CREST GARDENS HOMEOWNERS ASSOCIATION of P.O. BOX 171014, Salt Lake City, Utah 84117 (hereinafter referred to as the "Association").

RECITALS

- A. The Amended and Restated Declaration of Condominium for OAK CREST GARDENS was recorded in the office of the County Recorder of Salt Lake County, State of Utah on or about April 26, 1995 as Entry No. 6067765, in Book 7139, at Page 1785 of the official records (the "Declaration").
- B. Management and control of the Project has been transferred by the original declarant or its successors in interest to the Association.
- C. This document affects the real property located in Salt Lake County, Utah, described with particularity on Exhibit "A," attached hereto and incorporated herein by this reference.
- D. All of the voting requirements of Article III, Section 31 of the Declaration have been satisfied.

NOW, THEREFORE, for the reasons recited above, and for the benefit of the Project and the Unit Owners thereof, the Association hereby executes this FIRST AMENDMENT to the AMENDED AND RESTATED DECLARATION OF CONDOMINIUM OF OAK CREST GARDENS for and on behalf of all of the Unit Owners.

1. Article III, Section 8 of the Declaration is deleted in its entirety and the following language is substituted in lieu thereof.

8. Leases; General Provisions. The Units must be owner occupied in order for the Association to: (a) protect the equity of the individual property owners at the Project (the "Project"); (b) carry out the purpose for which the Project was formed by preserving the character of the Project as a homogeneous residential community

BK 83014 PG 0361

of predominantly owner-occupied Units and by preventing the Project from assuming the character of an apartment, renter-occupied complex; and (c) comply with the eligibility, requirements for financing in the secondary mortgage market insofar as such criteria provide that the project be substantially owner-occupied, leasing of a Unit or Units shall be prohibited, except in the case of undue hardship as provided below. Provided, however, the Management Committee shall be empowered to allow up to twenty (20%) percent of the Units in the Project to be leased or occupied by nonowner residents. Any Owner who intends to lease his Unit shall submit a written application to the Management Committee requesting permission to do so, which consent shall not be unreasonably withheld so long as at least eighty (80%) percent of the Units in the Project are owner occupied. No Unit may be leased without the prior written consent of the Management Committee. Units may be rented only in their entirety and no fraction or portion thereof may be rented. No transient, short-term, vacation, seasonal, hotel, executive or other similar uses are permitted. All rentals or leases must be in writing and for an initial term of not less than one (1) year.

**Hardship Exception.** The Management Committee, in its sole discretion, shall be empowered to allow reasonable leasing of Units beyond the percentage limitation set forth above upon written application to avoid undue hardship on an Owner. By way of illustration and not by limitation, examples of circumstances which would constitute undue hardship are those in which: 1) an Owner must relocate his residence and cannot, within ninety (90) days from the date the Unit was placed on the market, sell the Unit while offering it for sale at a reasonable price no greater than its current appraised market value; 2) the Owner dies and the Unit is being administered by his estate; 3) the Owner takes a leave of absence or temporarily relocates and intends to return to reside in the Unit; 4) the Unit is to be leased to a member of the Owner's immediate family, which shall be deemed to encompass children, grandchildren, grandparents, brothers, sisters, parents and spouses. Those Owners who have demonstrated that the inability to lease their Unit would result in undue hardship and have obtained the requisite approval of the Management Committee may lease their Units for such duration as the Management Committee reasonably determines is necessary to prevent undue hardship.

**Application for Hardship Exception.** Any Owner who believes that he must lease his Unit to avoid undue hardship shall submit a written application to the Management Committee setting forth the circumstances necessitating the leasing, a copy of the proposed lease, and such other information as the Management Committee may reasonably require. Leasing in the case of undue hardship shall be permitted only upon the Management Committee's written approval of the Owner's application. When a lease is approved, a copy of the lease, signed by the lessee and lessor, shall be submitted to the Management Committee within ten (10) days after it has been signed by both parties.

**Leasing Rules and Regulations.** The Management Committee shall have the power

BK8304PG0362

to make and enforce reasonable rules and regulations for leases and to fine. Any lease or related transaction which does not comply with this section shall be voidable at the option of the Management Committee.

Grandfather Clause. Anything to the contrary notwithstanding, the foregoing restrictions shall not apply to the Units (the "Grandfathered Units") noted below. The Grandfathered Units may continue to be leased without restriction for so long as record title to said Units remains vested in the name of the respective Owner(s) thereof (the "Grandfathered Owner(s)"). The term "Grandfathered Owner" shall include a succeeding "Trust" or other person (the "Qualified Successor Owner(s)") in which the Grandfathered Owner or such Owner's spouse, son, daughter, father or mother holds a beneficial interest in such Qualified Successor Owner of at least fifty percent (50%). Upon the conveyance of the Grandfathered Unit by the Grandfathered Owner or Qualified Successor Owner, the said Unit shall immediately become subject to the restrictions set forth above.

Unit No.	Name of Owner(s)
105	Jerry Jenkins
107	Jerry Kaufman
206	Kimberly Mason
403	Sue Smith - (Welti)
405	Joan Harling
408	Philis Pingree - (Burbidge)
602	Dale Pasco
702	Marylou Thurston

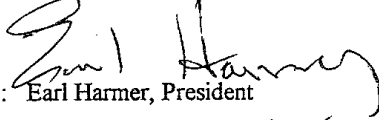
Miscellaneous Provisions. All lessees, their family members, guests, visitors and invitees, shall abide by the Act, Declaration, By-Laws, and Rules and Regulations. Activities or behavior which bothers, annoys or disturbs other residents or interferes with their right to the quiet enjoyment of the premises will not be permitted. All costs, including reasonable attorneys fees, incurred in construing or enforcing this section, regardless of whether suit is filed. Notwithstanding anything to the contrary herein contained, the provisions of this section shall not apply to impair the right of any Mortgagee to: (a) foreclose or take title to a Unit pursuant to remedies contained in any mortgage; (b) take a deed or assignment in lieu of foreclosure, or (c) sell, lease, or otherwise dispose of a Unit acquired by the Mortgagee.

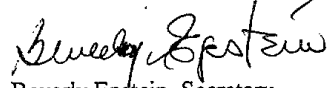
BK8304 PG0363

2. The effective date of this Amendment is the date it is recorded in the office of the County Recorder of Salt Lake County, Utah.

IN WITNESS WHEREOF, Declarant has executed this instrument the 23 day of August, 1999.

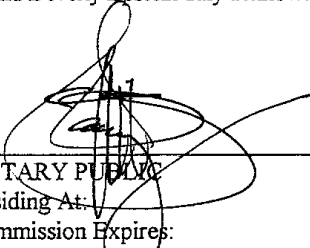
OAK CREST GARDENS HOMEOWNERS ASSOCIATION


BY:   
TITLE: Earl Harmer, President

BY:   
TITLE: Beverly Epstein, Secretary

STATE OF UTAH )  
COUNTY OF SALT LAKE ) ss:

On the 23 day of August, 1999, personally appeared before me Earl Harmer and Beverly Epstein, who by me being duly sworn, did say that they are the President and Secretary of the OAK CREST GARDENS HOMEOWNERS ASSOCIATION, and that the within and foregoing instrument was signed in behalf of said Association by authority of a resolution of its Management Committee, and said Earl Harmer and Beverly Epstein duly acknowledged to me that said Association executed the same.

  
\_\_\_\_\_  
NOTARY PUBLIC  
Residing At:  
Commission Expires:

 JAMES R. BLAKESLEY  
Notary Public  
State of Utah  
My Commission Expires Apr. 15, 2001  
2102 E. 3300 So., SLC. UT 84109

BK8304PG0364

EXHIBIT A

PAGE 2

BEGINNING AT THE SOUTHEASTERLY CORNER OF SAID LOT 3, AMENDED PLAT OF OAK HILLS PLAT "L", A SUBDIVISION OF PART OF SECTION 11, TOWNSHIP 1 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE N 63° 25' 26" W 115.35 FEET; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT (RADIUS 57.00 FEET, BEARING N 26° 34' 34" E) 92.34 FEET; THENCE N 29° 23' 59" E 249.88 FEET TO THE SOUTHERLY LINE OF A 100 FOOT DIAMETER CUL-DE-SAC, THE CENTER OF WHICH BEARS N 29° 23' 59" E 50.00 FEET.

D. SUBJECT TO AN EASEMENT TWENTY FEET WIDE, TEN FEET THEREOF LOCATED UPON THE PREMISES HEREINAbove FIRST DESCRIBED AND TEN FEET THEREOF LOCATED UPON THE ADJOINING PREMISES, FOR THE INSTALLATION AND CONTINUED MAINTENANCE, REPAIR, RECONSTRUCTION AND REMOVAL OF UNDERGROUND TELEPHONE AND ELECTRIC POWER CIRCUITS, SANITARY SEWER, STORM AND DRAIN SEWER, HOT WATER, CHILLED WATER, STEAM AND GAS, WATER MAINS, SNOW MELTING SYSTEMS, ALL TO BE CONTAINED IN DUCTS AND PIPES BELOW THE SURFACE OF THE LAND, WITHIN SAID TWENTY-FOOT STRIP OF LAND BEING TEN FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTER LINE, TO WIT:

BEGINNING AT THE SOUTHEASTERLY CORNER OF SAID LOT 3, AMENDED PLAT OF OAK HILLS PLAT "L", A SUBDIVISION OF PART OF SECTION 11, TOWNSHIP 1 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE N 63° 25' 26" W 115.35 FEET; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT (RADIUS 57.00 FEET, BEARING N 26° 34' 34" E) 92.34 FEET; THENCE N 29° 23' 59" E 249.88 FEET TO THE SOUTHERLY LINE OF A 100 FOOT DIAMETER CUL-DE-SAC, THE CENTER OF WHICH BEARS N 29° 23' 59" E 50.00 FEET.

E. TOGETHER WITH AN EASEMENT FOR THE INSTALLATION AND MAINTENANCE OF A RETAINING WALL PRESENTLY CONSTRUCTED AND LOCATED ALONG THE WESTERLY LINE OF THE ABOVE DESCRIBED 20.00 FOOT RIGHT OF WAY, THE WESTERLY FACE OF SAID WALL BEING CONTIGUOUS WITH THE WESTERLY LINE OF SAID RIGHT OF WAY, TOGETHER WITH A PERPETUAL EASEMENT FOR THE INSTALLATION AND MAINTENANCE OF THE NECESSARY FOOTINGS FOR SAID RETAINING WALL NOT TO EXCEED A WIDTH OF FOUR FEET SIX INCHES BEYOND THE WESTERLY FACE OF SAID WALL AND THE RIGHT OF INGRESS AND EGRESS FOR REASONABLE AND NECESSARY MAINTENANCE AND REPAIR OF SAID RETAINING WALL AND FOOTINGS.

NOT LEGIBLE FOR MICROFILM  
CA. RECORDED

BK 8304 PG 0365

EXHIBIT A

NOT LEGIBLE FOR MICROFILM  
OR RECORDED

The land described in the foregoing document is located in Salt Lake County, State of Utah and is described more particularly as follows:

BEGINNING AT THE SOUTHEASTERLY CORNER OF LOT 3, AMENDED PLAT OF OAK HILLS PLAT "L", A SUBDIVISION OF PART OF SECTION 11, TOWNSHIP 1 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE NORTH  $63^{\circ}25'26''$  EAST  $174.95$  FEET; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT (RADIUS  $57.00$  FEET, BEARING  $N26^{\circ}34'34''E$ )  $92.34$  FEET; THENCE  $N29^{\circ}23'59''E$   $249.85$  FEET; THENCE EASTERLY ALONG THE ARC OF A CURVE TO THE LEFT (RADIUS  $50.00$  FEET, BEARING  $N29^{\circ}23'59''E$ )  $64.05$  FEET; THENCE EASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT (RADIUS  $20.00$  FEET, BEARING  $S43^{\circ}59'56''E$ )  $25.62$  FEET; THENCE  $S60^{\circ}36'01''E$   $40.00$  FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT (RADIUS  $50.00$  FEET, BEARING  $S29^{\circ}23'59''W$ )  $33.16$  FEET; THENCE  $S22^{\circ}36'01''E$   $20.60$  FEET; THENCE SOUTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT (RADIUS  $44.00$  FEET, BEARING  $S67^{\circ}23'59''N$ )  $39.93$  FEET; THENCE  $S29^{\circ}23'59''W$   $12.00$  FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 3; THENCE  $S29^{\circ}23'59''W$   $106.21$  FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF A CURVE TO THE LEFT (RADIUS  $3549.95$  FEET, BEARING  $S60^{\circ}36'01''E$ )  $174.95$  FEET TO POINT OF BEGINNING.

SUBJECT TO AND TOGETHER WITH PERPETUAL RIGHTS OF WAY AND A PERPETUAL EASEMENT IS FOLLOWS:

A. SUBJECT TO AN EASEMENT FOR THE INSTALLATION AND CONTINUED MAINTENANCE, REPAIR, RECONSTRUCTION AND REMOVAL OF UNDERGROUND TELEPHONE AND ELECTRIC POWER CIRCUITS, HOT WATER, CHILLED WATER, STEAM AND GAS, WATER MAINS, SNOW MELTING SYSTEMS, TO BE CONTAINED IN DUCTS AND PIPES BELOW THE SURFACE OF THE LAND WITHIN A FOUR-FOOT NIDE STRIP OF LAND, BEING TWO FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTER LINE, TO WIT:

BEGINNING AT A POINT  $2.00$  FEET  $N63^{\circ}25'26''N$  FROM THE SOUTHEAST CORNER OF LOT 3, AMENDED OAK HILLS PLAT "L", AND RUNNING THENCE NORTHEASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT (RADIUS  $3551.95$  FEET, BEARING  $S63^{\circ}23'26''E$ )  $174.95$  FEET; THENCE  $N29^{\circ}23'59''E$   $118.29$  FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT (RADIUS  $42.00$  FEET, BEARING  $N60^{\circ}36'01''W$ )  $38.12$  FEET; THENCE  $N22^{\circ}36'01''W$   $20.60$  FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT (RADIUS  $48.00$  FEET, BEARING  $S67^{\circ}23'59''W$ )  $31.83$  FEET; THENCE  $N60^{\circ}36'01''W$   $40.00$  FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT (RADIUS  $18.00$  FEET, BEARING  $S29^{\circ}23'59''W$ )  $23.06$  FEET; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT (RADIUS  $52.00$  FEET, BEARING  $N43^{\circ}59'56''W$ )  $66.61$  FEET.

B. TOGETHER WITH A RIGHT OF WAY OF GENERAL PASSAGE OVER AND UPON A STRIP OF LAND FIFTY FEET WIDE AND A CUL-DE-SAC THE AREA THEREOF BEING DESIGNATED AS "DONNIE CIRCLE," AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF SAID LOT 3, AMENDED PLAT OF OAK HILLS PLAT "L", A SUBDIVISION OF PART OF SECTION 11, TOWNSHIP 1 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE  $S60^{\circ}36'01''E$   $50.00$  FEET; THENCE  $N29^{\circ}23'59''E$   $12.00$  FEET; THENCE NORTHERLY ALONG THE ARC OF A CURVE TO THE LEFT (RADIUS  $94.00$  FEET, BEARING  $N60^{\circ}36'01''W$ )  $85.31$  FEET; THENCE  $N22^{\circ}36'01''W$   $20.60$  FEET; THENCE NORTHWESTERLY ALONG THE ARC OF A CURVE TO THE LEFT (RADIUS  $100.00$  FEET, BEARING  $S67^{\circ}23'59''W$ )  $66.32$  FEET; THENCE  $N60^{\circ}36'01''W$   $107.08$  FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT (RADIUS  $50.00$  FEET, BEARING  $S29^{\circ}23'59''W$ )  $221.13$  FEET; THENCE EASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT (RADIUS  $20.00$  FEET, BEARING  $S43^{\circ}59'56''E$ )  $25.62$  FEET; THENCE  $S60^{\circ}36'01''E$   $40.00$  FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT (RADIUS  $50.00$  FEET, BEARING  $S29^{\circ}23'59''W$ )  $33.16$  FEET; THENCE  $S22^{\circ}36'01''E$   $20.60$  FEET; THENCE SOUTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT (RADIUS  $44.00$  FEET, BEARING  $S67^{\circ}23'59''N$ )  $39.93$  FEET; THENCE  $S29^{\circ}23'59''W$   $12.00$  FEET TO THE POINT OF BEGINNING.

C. SUBJECT TO AND TOGETHER WITH A JOINT RIGHT OF WAY OF GENERAL PASSAGE TWENTY-FOOT WIDE, THE CENTER LINE OF SAID RIGHT OF WAY BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BK 8304 PG 0366