

2561410

ST. MARYS PARK CO.,  
A UTAH CORPORATION

TO

WHOM IT MAY CONCERN

ST. MARYS PARK PROPERTY  
OWNERS ASSOCIATION AND  
DECLARATION OF RESTRICTIVE  
COVENANTS, AGREEMENTS, RE-  
STRICTIONS AND CONDITIONS  
AFFECTING THE REAL PROPERTY  
KNOWN AS ST. MARYS PARK

WHEREAS, the undersigned is the legal and beneficial owner of a certain tract of land situated in Salt Lake County, State of Utah, described as St. Marys Park, and more particularly described in Exhibit "A" attached hereto and by this reference incorporated herein; and

WHEREAS, the undersigned proposes to now subdivide, develop and sell the Exhibit "A" real property being known and designated as St. Marys Park Plat "A" and being situated in Salt Lake County, State of Utah, and being more particularly described in Exhibit "A" attached hereto and by this reference incorporated herein;

NOW THEREFORE, the undersigned declares that the property described in Exhibit "A" attached hereto, is held and shall be held, sold, conveyed, leased, occupied, resided upon, hypothecated and mortgaged subject to the following agreements, restrictions, conditions, covenants between themselves and the several owners and purchasers of said property and their heirs, successors and assigns.

KNOW ALL MEN BY THESE PRESENTS THEREFORE, that all of said restrictions, conditions, covenants and agreements are made for the direct, mutual and reciprocal benefit of each and every lot created within the property described in Exhibit "A", and are intended to create mutual and equitable servitude upon each of said lots in favor of every other lot created on the aforesaid property and to create reciprocal rights and obligations between the respective owners of all of the lots so created, and to create a privity of contract and estate between the grantor and the grantees of said lots, their heirs, successors and assigns, as to each said lot, operate as covenants running with the land for the benefit of all other lots as follows:

Recorded AUG 14 1973 at 910A m.  
Request of St Marys Park Co.  
Fee Paid JERADEAN MARTIN  
Recorder, Salt Lake County, Utah  
\$ 1300 By J.S. Deputy  
Ref. 421 So Main St

BOOK 3394 PAGE

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1. PROPERTY OWNERS ASSOCIATION:

There is hereby created the St. Marys Park Property Owners Association (hereinafter referred to as the "Association") consisting of the owners (hereinafter referred to as "Association Members") of all lots created by subdivision within the boundaries of the property described in Exhibit "A". Any person, firm, partnership, or corporation who buys or owns such a lot in said subdivision or subdivisions shall, upon the purchase thereof, become a member of the Association and obligated to the terms and conditions herein set forth. The Association Members shall have the right to elect, appoint, reappoint and replace the Executive Committee Members of the St. Marys Park Property Owners Association Executive Committee as hereinafter provided.

2. EXECUTIVE COMMITTEE:

There is hereby created a "St. Marys Park Property Owners Association Executive Committee" (hereinafter referred to as the "Executive Committee") consisting of five members (hereinafter referred to as "Committee Members") which Executive Committee shall have and exercise the powers for and on behalf of the Association and the Association Members.

The undersigned has designated the initial five Committee Members who shall serve until their death, resignation or replacement as hereinafter provided. Any vacancy on the Executive Committee may be filled by the majority vote of the remaining Committee Members.

The Executive Committee shall elect a chairman thereof and the Executive Committee shall meet upon the reasonable call of the chairman and after reasonable notice, or upon the request of a majority of the Committee Members. A quorum of the Executive Committee shall consist of at least three Committee Members and the Executive Committee may make decisions at a meeting thereof at which a quorum is present by a simple majority of the Committee Members present at said meeting.

The Executive Committee shall have the responsibility and the authority with reference to the following specific matters:

- (a) To appoint, reappoint and replace an architectural supervising committee consisting of three (3) members, and, if necessary, to pay the members thereof.

- (b) To provide for the maintenance of the common areas within the subdivision or subdivisions including the landscaping and care of said common areas and to provide for the payment of taxes levied and assessed against said common areas.
- (c) To design, develop and install or contract for the design, development and installation and the operation and maintenance and electrical services for special street lighting within the subdivision or subdivisions.
- (d) To retain and, if necessary, to pay for necessary legal and accounting services for and on behalf of the Association.
- (e) To do and provide for each and every thing and purpose not inconsistent with these declarations, deemed by the Executive Committee to be in the best interest of the Association Members.
- (f) To make any and all decisions required, necessary or deemed to be wise and not inconsistent with these declarations, for and on behalf of the Association or its members.
- (g) To adopt By Laws and regulations for the Executive Committee and for the Association for the purpose of accomplishing the objectives set forth; provided, that the same shall not be inconsistent with any of the provisions of these declarations.
- (h) To commence legal actions in the name of the Executive Committee on behalf of the Association.

3. REPLACEMENT OF EXECUTIVE COMMITTEE MEMBERS:

Any or all of the members of the Executive Committee may from time to time be replaced or vacancies may be filled, at a meeting of the members of the Association called for that

purpose. Meetings may be called by the Executive Committee, any three members thereof, or by 40% of the Association Members, by written notice specifying the date, time and place of the meeting being given, to all Association Members not more than thirty (30) nor less than twenty (20) days in advance of the meeting date. To replace a member of the Executive Committee, or to fill a vacancy at such a meeting, a majority vote of all members of the Association (not just a majority of those present) is required.

#### 4. MEMBERSHIP FEES:

The Executive Committee of the Association shall have the authority and responsibility, from time to time as may be reasonably necessary, to determine, fix and assess the Association Members for monthly fees required to accomplish the purposes of the Association as described in paragraph 2 above. Association Members shall be advised in writing by the Executive Committee of the monthly fees assessed, and the Association Members shall pay the same to the Executive Committee or its designated agent or depository on or before the 15th day of each and every month thereafter. Fees not paid when due shall bear interest at the rate of 15% per annum. The fees so assessed shall be uniform so that Association Members will be charged the same monthly fee for each lot owned by them. The Executive Committee may, from time to time, as necessary, change, increase or reduce the monthly fees by giving written notice thereof to the Association Members. The Executive Committee shall keep records of all fees assessed and collected and all disbursements made therefrom, and said records shall be available for inspection and copying by the Association Members at reasonable times and places. The fees collected shall be expended and disbursed only for the purposes provided for in paragraph 2 above, including subparagraphs (a) through (h) thereof, inclusive.

#### 5. LIEN FOR UNPAID FEES:

To secure the payment of the fees, the Association shall have a lien upon all lots for which the assessed fees have not been paid. The lien shall be in the amount of the unpaid fees, together with interest accrued and accruing. Notice of any such lien shall be given by the filing by the Executive Committee in the office of the Salt Lake County

Recorder of an appropriate notice to the effect that the Association claims a lien for unpaid fees and interest. In the absence of such a recorded notice of lien, any interested party may conclusively presume that a lot or lots are free from such encumbrance. The Association may collect unpaid fees and interest due and owing to it and secured by lien at such time as the lot or lots are transferred, or by an action to foreclose the lien, in which event the Association Member shall also be liable for reasonable attorney's fees incurred incident to the collection thereof.

6. COMMON AREAS:

The subdivision plat filed with reference to the Exhibit "A" property designates certain ground as a "common areas". All record lot owners of all lots created within the Exhibit "A" property, are by these presents granted a nonexclusive and undivided interest and ownership in and to all such "common areas". The use, control and maintenance of said "common areas" for the benefit of the Association Members, shall be by the decision and at the discretion of the Executive Committee. The nonexclusive and undivided ownership, use, benefit and enjoyment of the "common areas" shall run with and be appurtenant to the lots and shall not otherwise be transferred, hypothecated or encumbered.

7. ARCHITECTURAL SUPERVISING COMMITTEE:

There is created an Architectural Supervising Committee consisting of three (3) members to be appointed, reappointed and replaced by the Executive Committee. The functions of said committee shall be, in addition to the functions elsewhere in this declaration set forth, to pass upon, approve or reject any plans, or specifications for structures to be erected on lots in said tract, so that all structures shall conform to the restrictions and general plans of the undersigned, and of the Committee, for the improvement and development of the whole tract. Nothing in this paragraph shall be construed as authorizing or empowering the committee to change or waive any restrictions set forth in this declaration except as herein specifically provided. The committee may act by any two of its members, and any authorization approval or power made by

the committee must be in writing signed by at least two members.

8. IMPROVEMENTS:

- (a) Type of Structures: No building other than one single family dwelling house, and any appropriate outbuildings shall be erected on any of said lots, nor shall any house constructed on any of said lots be used for any purpose other than a dwelling house or appurtenant outhouses, except the undersigned can allow to be located in the subdivision two family residences.
- (b) Before the Architectural Supervising Committee may approve any plans for construction work of any kind on the premises, the lot owner or purchaser must submit to said committee an accurate plot plan showing the exact location of all buildings to be built on the lot. No construction of any kind or nature on any of the lots shall be commenced until either sidewalk or curb grade has been established.
- (c) Approval of Plans: No structures, either residence, outbuilding, tennis court, swimming pool, wall, fence or other improvements shall be constructed upon any of the said lots without the written approval as to location, height and design thereof first having been obtained from the Architectural Supervising Committee. Before construction work of any kind is started, the plans of the exterior design of any building to be constructed on any of said lots shall first be submitted to the Architectural Supervising Committee for their approval, and said plans shall show the four exterior elevations of said building, together with the floor plan plotted on a map of said lots and any additional details of the house construction the Architectural Supervising Committee may require.
- (d) Landscaping: No landscaping shall be started on said property nor any planting of trees take place until the plans and specifications therefor have been first approved in writing by the Architectural

Supervising Committee. Nothing in this paragraph shall be construed as authorizing or empowering the committee to change or waive any restrictions set forth herein.

9. MINIMUM BUILDING COSTS:

The undersigned reserves the right for itself, its successors and assigns to set a minimum figure for the cost or square foot floor area of any dwelling house to be erected on any of said lots in contracts and deeds to any or all of the lots created in the above described property.

10. RESTRICTIONS:

The use, development, enjoyment, ownership, transfer and hypothecation of all the lots and land within the property described in Exhibit "A" shall be subject to the following restrictions:

- (a) Private Residence: Moving of Structures: Said premises shall be used for private residence purposes only, except as hereinafter set forth, and no structure of any kind shall be moved from any other place upon said premises, nor shall any incomplete building be permitted to remain incomplete for a period in excess of one year from the date the building was started unless approved by the Architectural Supervising Committee.
- (b) Set Backs: No dwelling house or other structure shall be constructed or situated on any of said lots created except in conformity with the "set back" lines as established in each instance by the Architectural Supervising Committee, and in conformity with any additional "set back" lines which may be fixed by the undersigned, its successors and assigns, in contracts or deeds to any or all of the lots created on said property. The "set back" of any building, or other structure, as to any line, shall be deemed to be the minimum distance between said building, or other structure, and said line; the "set back" of any building, or other structure, as to any street, shall be deemed to be the minimum distance between said building, or other structure, and the nearest line of said street.

- (c) Excavating: No excavation for stone, gravel or earth shall be made on said property unless such excavation is made in connection with the erection of a building or structure thereon.
- (d) Fences, Walls and Trees: No fence, wall or hedge over four feet in height shall be erected or grown at any place on said premises; provided, however, that the restrictions set forth in this paragraph may be waived or modified as to any parcel by the Architectural Supervising Committee hereinafter referred to. Said Architectural Supervising Committee shall also supervise the planting and growth of trees on lots in said tract in order to prevent one lot owner from planting trees or allowing trees to grow so that the view from other lots may be obstructed or impaired; the grantee agrees to abide by any order of said committee directing him not to plant any trees or to cut down or cut back or remove any trees which may have been planted. The agreement contained in the last preceding sentence shall be construed as a covenant running with the land and not as a condition which might cause the grantee's title to be forfeited. The grantee further agrees that the members of said committee may at any time institute or prosecute in the name of any member of said committee any suit or suits which the committee may consider advisable in order to compel and obtain a decree for specific performance by the grantee of his agreement to remove, cut down or cut back any tree which the committee has ordered removed, cut down or cut back. Should any such suit be instituted, the grantee agrees to pay reasonable attorney's fees for the plaintiff's attorney as may be fixed by the court.
- (e) Rubbish Control: No rubbish shall be stored or allowed to accumulate thereon.
- (f) Pets, Animals, Etc.: No animals, other than a reasonable and usual number of household pets, shall be kept on any of said lots.



(g) No signs shall be displayed on any of said lots except as follows: The name and professions of any professional man may be displayed at any dwelling house upon a sign not exceeding 100 square inches in size. Signs shall not be illuminated. There may also be displayed a sign not exceeding 24 inches by 24 inches advertising the fact that said parcel or said dwelling is for sale or to lease.

(h) No noxious or offensive trade or activity shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. The Architectural Supervising Committee shall be sole judge of what shall be an annoyance or nuisance to the neighborhood.

11. TERMS OF RESTRICTIONS:

Each and all of said restrictions, conditions, covenants and agreements shall continue in full force and effect and be binding until the first day of January 2005, upon which date same shall be automatically continued for successive periods of ten years each, unless it is agreed by the vote of the majority of the Association Members to terminate and do away with same; provided, however, that at any time these restrictions, conditions, covenants and agreements may be repealed, altered or modified by the majority vote of the then members of the Association.

12. MANNER OF VOTING:

In voting for any purpose provided for herein, each Association Member shall be entitled to one (1) vote for each lot owned by the Association Member. The action resulting from such vote is to be evidenced by a written instrument, signed and acknowledged by the Association Members and recorded in the County Recorder's office of Salt Lake County, State of Utah.

13. EASEMENTS:

Such easements and rights of way shall be reserved to the undersigned, its successors and assigns, in and over said real property for the erection, construction and maintenance and operation therein or thereon of drainage pipes or conduits and pipes, conduits, poles, wires and other means of conveying

to and from lots in said tract, gas, electricity, power, water, telephone and telegraph services, sewage and other things for convenience to the owners of lots in said tract, as may be shown on said map and the undersigned, its successors, and assigns, shall have the right to reserve any further necessary easements for said purposes in contracts and deeds, to any or all of the lots shown on said map. No structures of any kind shall be erected over any of such easements except upon written permission of the undersigned, its successors and assigns.

14. RESUBDIVISION OF SITES:

None of said lots may be resubdivided unless approved in writing by the undersigned, its successors or assigns.

15. VIOLATION OF RESTRICTIONS, PENALTIES:

Violation of any of the restrictions, conditions, covenants or agreements herein contained shall give the undersigned, its successors and assigns, or a representative of the Executive Committee, the right to enter upon the property upon or as to which said violation or breach exists, and to summarily abate and remove at the expense of the owner, any erection, thing, or condition that may be or exist thereon contrary to the provisions hereof, without being deemed guilty of trespass. The result of every action or omission whereby any restriction, condition, covenant or agreement is violated, in whole or in part, is hereby declared to be and constitute a nuisance and every remedy allowed by law against a nuisance, either public or private, shall be applicable against such result. Such remedy shall be deemed cumulative and not exclusive.

16. ACCEPTANCE OF RESTRICTIONS:

All purchasers of property described above shall, by acceptance of contracts or deeds for any lot or lots shown thereon, or any portion thereof, thereby be conclusively deemed to have consented and agreed to all restrictions, conditions, covenants and agreements set forth.

17. INVALIDITY:

It is expressly agreed that in the event any covenant or condition or restriction hereinbefore contained, or any portion thereof, is held invalid or void, such invalidity or voidness shall in no way effect any valid covenant, condition or restriction.

ST. MARY'S PARK PLAT "A"

Beginning at a point on the South line of Sherwood Drive, said point being the Northeast corner of Lot 36, St. Mary Hills, Plat "B", a subdivision in Section 11, Township 1 South, Range 1 East, Salt Lake Base and Meridian, and running thence South 340.00 feet; thence East 20.00 feet; thence South 50.00 feet; thence East 107.51 feet; thence South  $84^{\circ}25'10''$  East 50.71 feet; thence North  $86^{\circ}$  East 15.00 feet; thence Southeasterly along the arc of a curve (radius bears South  $4^{\circ}$  East 50.00 feet) a distance of 40.14 feet; thence North  $42^{\circ}$  East 113.46 feet; thence South  $44^{\circ}$  East 67.00 feet; thence South  $86^{\circ}30'$  East 110.01 feet; thence North  $89^{\circ}24'35''$  East 50.56 feet; thence South  $84^{\circ}$  East 87.05 feet; thence South  $82^{\circ}$  East 67.74 feet; thence South  $59^{\circ}14'41''$  East 52.30 feet; thence South  $8^{\circ}$  East 154.93 feet; thence South  $73^{\circ}$  East 180.00 feet; thence North  $13^{\circ}$  East 147.07 feet; thence North 55.17 feet; thence North  $65^{\circ}$  West 4.20 feet; thence northwesterly along the arc of a curve (radius bears North  $25^{\circ}$  East, 240.00 feet) a distance of 9.39 feet; thence North  $25^{\circ}$  East 103.01 feet; thence South  $65^{\circ}$  East 68.00 feet; thence North 229.00 feet; thence West 375.00 feet; thence North 130.00 feet to the South line of Sherwood Drive; thence West 656.01 feet to the point of beginning.

IN WITNESS WHEREOF, ST. MARYS PARK CO., a Utah Corporation, has hereunto set its hand to the foregoing document by its President, duly authorized thereunto.

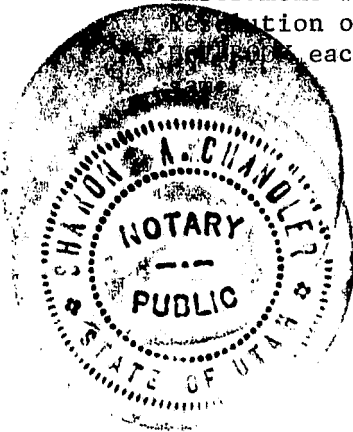
ST. MARYS PARK CO.,  
a Utah Corporation

Attest:

Alan F. Holbrook      Jean B. Carlos  
Secretary                      President

STATE OF UTAH            )  
                                  )      ss.  
County of Salt Lake)

On this 13<sup>th</sup> day of August, 1973, personally appeared before me JEAN B. CARLOS and ALAN F. HOLBROOK, who being by me duly sworn did say, each for himself, that he, the said JEAN B. CARLOS is the President, and he, the said ALAN F. HOLBROOK is the Secretary of ST. MARYS PARK CO., a Utah Corporation, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors and said JEAN B. CARLOS and ALAN F. CARLOS each duly acknowledged to me that said corporation executed the



Sharon A. Chandler  
Notary Public Residing at  
Salt Lake City, Utah  
My Commission Expires Nov. 12, 1975