

✓ Upon recording, return to:

6/25/94
ccroaks

Westfield Oaks L.C.
c/o: Richard Mendenhall
2824 East 4215 South
Salt Lake City, Utah 84124

ENT 53486 BK 3477 PG 906
NINA B REID UTAH CO RECORDER BY MB
1994 JUN 29 10:10 AM FEE 53.00
RECORDED FOR ACTION TITLE COMPANY

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
WESTFIELD OAKS SUBDIVISION**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (hereinafter referred to as the "Declaration"), is made as of this 1st day of June, 1994, by WESTFIELD OAKS L.C., a Utah Liability Company (the "Declarant"), with reference to the following facts:

WHEREAS, Declarant is the owner of record of that certain parcel of real property known as Westfield Oaks Subdivision Phase 1 (the "Subdivision"), whose subdivision plat was recorded on June 23, 1994, as Entry No. 51990, Map No. 5582, of the official records in the Office of the County Recorder for Utah County, State of Utah. Westfield Oaks Subdivision Phase 1 is located in Alpine City, Utah County, State of Utah, and is more particularly described as follows:

Commencing at a point located South 0°18'08" East along the section line 1187.995 feet from the East 1/4 corner of Section 23, Township 4 South, Range 1 East, Salt Lake Base and Meridian; thence South 0°18'08" East along the section line 1140.09 feet; thence South 63°44'13" West 83.40 feet; thence along the arc of a 400 foot radius curve to the left 200.77 feet (chord bearing and distance being South 49°21'27" West 198.676 feet); thence South 34°58'40" West 148.30 feet; thence along the arc of a 600 foot radius curve to the right 152.60 feet (chord bearing and distance being South 42°15'50" West 152.19 feet); thence south 49°33'00" West 146.02 feet; thence along the arc of a 600 foot radius curve to the left 23.97 feet (chord being and distance being South 48°24'20" West 23.97 feet); thence South 49°41'00" West 204.32 feet; thence South 53°49'57" East 8.80 feet; thence South 47°15'41" West 120.11 feet; thence North 48°15'13" West 371.26 feet; thence North 3°33'52" East 54.74 feet; thence North 28°52'38" East 243.63 feet; thence North 11°06'58" East 57.64 feet; thence along the arc of a 173 foot radius curve to the right 138.13 feet (chord bearing and distance being North 32°24'56" West 134.49 feet); thence along the arc of a 313 foot radius curve to the right 50.48 feet (chord being and distance being North 4°55'19" West 50.42 feet); thence North 0°18'08" West 163.00 feet; thence East 299.22 feet; thence North 10°43'53" East 493.61 feet; thence North 3°21'44" West 483.96 feet; thence North 89°41'52" East 238.50 feet; thence North 89°32'52" East 55.20 feet; thence North 89°41'52" East 338.52 feet to the point of beginning. With a total area of 27.455 acres.

The area described above is also known as Lots 1 - 20 of the Westfield Oaks Subdivision Phase 1, as platted and recorded in the office of the Utah County Recorder.

WHEREAS, all lots in the Subdivision are a part of and are governed by this Declaration, and

WHEREAS, the Declarant desires to develop a residential subdivision of distinctive and individual character and for the benefit of all owners within the Subdivision intends to provide for the preservation of such character, and

WHEREAS, the Declarant intends to sell the individual lots which comprise the Property described above and the Declarant desires to subject each respective lot to a general plan of improvement which will include certain restrictions, conditions, covenants, and agreements, as hereinafter set forth;

NOW, THEREFORE, the Declarant declares that the Property shall be held, sold, conveyed, leased, occupied, resided upon and hypothecated subject to the following covenants, conditions and restrictions; which covenants, conditions and restrictions shall run with the land, are established for the purpose of protecting and preserving the value of each and every part of the Property, and which shall be binding upon each and every party which shall at any time have any right, title or interest in or to the Property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each Owner thereof.

ARTICLE I DEFINITIONS

Section 1.1 "Association" shall mean the Westfield Oaks Home Owners Association, comprised of each respective Owner of a Lot in the Subdivision and future Phases of the Westfield Oaks Subdivisions. Decisions by the Association shall be made by a vote of a majority of those Owners present at a duly called meeting of the Association. No vote shall be taken, however, without a quorum of the Owners present, comprised of a majority of the Owners of Lots in the subdivision. One vote shall be allotted to the Owner of each of the Lots in the Subdivision and future Phases. No dues shall be assessed to individual members of the Association, unless otherwise decided by the members of the Association.

Section 1.2 "Committee" shall mean the Architectural Control Committee, as such Committee is further described in Article IV hereof.

Section 1.3 "Declarant" shall mean Westfield Oaks L.C. , a Utah Limited Liability Company and its successor(s) and/or assign(s).

Section 1.4 "Family" shall mean a group of natural persons related to each other by blood or legally related to each other by marriage or adoption.

Section 1.5 "Improvement" shall mean any structure, Residence, building, barn, storage shed, garage, Landscaping, accessory building, fence, wall, nonliving or living screen, or other structure of Landscaping, or other meaningful addition or alteration constructed or added to a Lot.

Section 1.6 "Landscaping" shall mean lawn, shrubs, flowers, trees and natural foliage located or placed upon a Lot.

Section 1.7 "Lot" shall mean any individual parcel shown upon the Map of the Subdivision, which may be legally conveyed by reference only to the number of such Lot designated on the Map.

Section 1.8 "Map" shall mean the official subdivision plat map recorded June 23, 1994, as Entry No. 51990, Map No. 5582, of the official records in the Office of the Utah County Recorder, State of Utah, as the same may be amended from time to time.

Section 1.9 "Mortgage" shall mean any instrument creating a lien with respect to a Lot including a mortgage, deed of trust or any similar security agreement.

Section 1.10 "Mortgagee" shall mean the holder of the obligation secured by a Mortgage.

Section 1.11 "Owner" shall mean the recorded owner of a fee simple title to any Lot which is a part of the Subdivision. In the event that more than one party shall be established as the record Owners of a Lot, then for all purposes under this Declaration, all such parties shall be required to act jointly as the Owner of such Lot..

Section 1.12 "Property" shall mean all the real property described above, consisting of all Lots of the Subdivision.

Section 1.13 "Residence" shall mean a single building designed and constructed for residential occupancy to be occupied by a Family.

Section 1.14 "Street" shall mean all streets dedicated to Alpine City.

ARTICLE II PURPOSE

Section 2.1 Purpose of Declaration. The purpose of this Declaration is to insure the use of the Property for attractive residential purposes, to prevent nuisances, to prevent the impairment of the attractiveness of the Property, and to maintain the desired tone of the Subdivision, and thereby to secure to each Owner the full benefit, enjoyment and value of their home, with no greater restriction on the free and undisturbed use of their site than is necessary to insure the same advantages to other Owners.

ARTICLE III GENERAL RESTRICTIONS AND REQUIREMENTS

Section 3.1 Land Use and Building Type. Each Lot shall be used exclusively for the construction and occupancy of a Residence, to be occupied by a Family, related Landscaping and other incidental and related Improvements. Except as may be specifically provided in Article III hereof, no building shall be erected, altered, placed or permitted to remain on any Lot other than: (1) one single Family dwelling with enclosed, attached garage for at least three cars. (2) One other detached building which is architecturally compatible with the residence. Any additional detached buildings must be approved by the Committee, and will only be approved after the Owner has demonstrated the reasonable need for any additional buildings and that the Committees approval of any additional building will not create a problem for any other Owners in the Subdivision.

Section 3.2 Subdivision of Lot. No Lot may be divided, subdivided or separated into smaller parcels unless approved in writing by (1) the Committee, which approval shall be granted, if at all, in accordance with this Declaration, and (2) by Alpine City.

Section 3.3 Residence Size and Materials. No structure shall be constructed upon any Lot unless and until the final plans and specifications for such structure have been submitted to and approved by the Committee. No single story Residence shall be constructed, altered, placed or permitted to remain on any Lot unless the main floor area, exclusive of basement, open porches and garages, is 2,500 square feet or greater. No multi-story Residence shall be constructed, altered, placed or permitted to remain on any Lot unless the main floor, exclusive of basements, open porches and garages, is a total of 1,800 square feet or greater. Garages shall be enclosed, large enough for at least three cars, and situated so as to utilize a side or rear facing entrance. No thin brick or logs may be used in the exterior construction of a Residence, artificial stone may only be used provided the Committee has given specific approval. The Architectural Control Committee may approve a home of a size smaller than as provided in this paragraph only after considering all relevant factors and it is determined to be clearly unreasonable, under

the given circumstances, to require the larger sized home. The exterior of all Residences must be constructed of brick, stone, and/or a high quality synthetic stucco system, with wood being used for trim purposes only. Aluminum soffits and fascia trim will be allowed. No aluminum or vinyl siding materials shall be allowed on the exterior of any Residence. Roof surfaces shall be wood or architectural asphalt shingles, concrete or bar tile, unless specific, written approval of the Committee is received for the use of other roofing materials. Asphalt shingles shall not be allowed or used for a roofing material for a Residence in the Subdivision. Colors of exterior materials shall be approved by the Committee. Care should be given that each Residence compliment those around it, and not detract in design, quality or appearance. All final decisions with respect to these enumerated standards and their application to a particular proposed structure in the Subdivision shall be made by the Committee.

Section 3.4 Building Location. No walls or foundation of a Residence or other structure shall be located on any Lot nearer to the front Lot line or nearer to the side Lot lines than the minimum building set-back described in this Declaration. Notwithstanding any zoning requirements to the contrary, except where special, written approval is first given by the Committee, each Residence shall be located (1) at least 45 feet from the boundary line of such Lot along the Street, and (2) at least twenty five (25) feet from any other boundary line, side or rear, of any Lot. The site plan showing the proposed location of all Improvements to be constructed upon a Lot shall be submitted to and approved by the Committee prior to the commencement of any construction.

Section 3.5 Construction and Landscaping Time Restrictions. It is understood that the Lot owner shall not be required to build any Improvements on their Lot. However Lot Owners will be obligated to maintain their Property in a reasonable state of appearance, which shall be deemed to include the elimination or control of weed growth on the Lot and any other factor which may be considered to be noxious or to create a nuisance.

The exterior constructions of all Residences or other structures shall be completed within a period of one (1) year following commencement of construction. The front and side yards of each Lot shall be landscaped with at least a sprinkling system and grass lawn, as appropriate, within a period of six (6) months following completion or occupancy of each Residence, whichever shall occur first. Rear yards shall be landscaped, with at least a sprinkling system and grass lawn, as appropriate, within a period of eighteen (18) months following completion or occupancy of each Residence, whichever shall occur first. As a minimum, the area of each Lot which must be landscaped and upon which the Residence is constructed must be at least two thirds (2/3) of an acre. The minimum landscaped area shall include all lot boundaries fronting on any dedicated roads. The minimum landscaped area shall be calculated by starting with the lot frontage and moving down both side lot boundaries until the point is reached in front of which the total area is a minimum of two thirds (2/3) acre. Any unlandscaped portion of the Lot must be maintained in accordance with the provisions of this section and section 3.14.

The time periods set forth in this paragraph may be extended by that period of time during which access to the Lot is restricted by reason of weather, seasonal conditions and/or soil conditions which would prohibit such performance.

Section 3.6 Utility Lines. All utility lines shall be installed underground. Connection fees shall be paid by each individual Owner.

Section 3.7 Governmental Regulations. All applicable governmental rules, regulations, and ordinances of Alpine City, Utah County or other Governmental Agency, must be complied with regarding activities within the Subdivision. When a subject is covered both by this Declaration and a governmental rule, restriction or ordinance, the more restrictive requirements shall be met.

Section 3.8 Fire Protection. Each Residence shall have installed surrounding it a sprinkler

system for fire protection covering an area no smaller than two thirds (2/3) acre, including the area of the Residence, which may also be used for irrigation. All residents shall strictly comply with all state and city ordinances pertaining to fire hazard control. All stacks and chimneys from fireplaces in which combustibles, other than natural gas, are burned shall be fitted with spark arresters. Exterior fires must be contained within appropriate receptacles and in compliance with Alpine City ordinances.

Section 3.9 Nuisances, Unreasonable Annoyance and Noxious Activities. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which may be or may become an unreasonable annoyance, nuisance or danger to the Subdivision. Except for legitimate construction and maintenance purposes, no excessively loud noises shall be permitted in the Subdivision.

Section 3.10 Signs. No signs, posters, displays or other advertising devices of any character shall be erected or maintained on, or shown or displayed to the public view on any Lot without express written approval having been first obtained from the Association; provided, however, that the restrictions of this paragraph shall not apply to any sign or notice seven square feet or smaller in size which states that the premises are for rent or sale. The Association may cause all unauthorized signs to be removed. This section shall not apply to any signs used by Declarant or its agents in connection with the original construction and sale of the Lots.

Section 3.11 Antennas. All television and radio antennas shall be completely erected, constructed and placed within the enclosed area of the Residence or garage on the Lot. Satellite dishes or other electronic reception devices shall be located and screened so as to not be visible from the Street or an adjacent Lot. Exceptions must first be expressly approved in writing by the Committee.

Section 3.12 Animals. Domestic animals may be maintained by the Lot owners, provided, that all animals must be contained in a containment area on the owners' Property with the proper fencing and that such contained areas must be cleaned on a regular basis to minimize odors and maintain a clean appearance. The species and number of each species must be approved by the Committee, and furthermore, no animals shall be maintained in areas closer than fifty (50) feet to any Residence built on an adjoining Lot. Commercial raising of animals or pets will not be permitted, except with the specific permission of the Committee in writing.

Owners shall be responsible for all damage or loss incurred by other Lot Owners or their invitee caused by animals they own. Owners will be responsible for maintaining control over animals they own at all times if such animals are taken out of the containment area. The enclosure constituting the containment area must be maintained such that the animal cannot escape therefrom. Any such containment areas must be cleaned on a regular basis to minimize odors and maintain a clean appearance. In no case may any household pet or other animal kept at or around the Residence be allowed to create a nuisance for neighboring Lot owners due to noise, or otherwise.

Section 3.13 Storage of Vehicles and Materials. No truck larger than one ton, trailer, construction equipment, or recreational vehicle, including but not limited to campers, boats, motor homes, off-road vehicles, motorcycles and similar equipment, or passenger trucks or cars not used on a regular basis and which are not reasonably operational and in a reasonable state of repair, (hereinafter collectively referred to as the "Equipment or Vehicles") shall be permitted to be parked overnight or for any period of time longer than twenty-four (24) hours, upon any portion of the Streets, or on any Lot, driveway or off-street parking area of a Lot in front of the front set-back line of the Residence. The Equipment or Vehicles including recreational vehicles shall be allowed to remain overnight on the Property only if housed in a garage, or other detached building, or parking area located behind the front set-back line of the Residence. Appropriate and reasonable screening for any such parking area behind the front set-back line of the Residence may be required by the Committee at the Committee's sole discretion and at the sole expense of the Owner. Failure to comply with the provisions hereof shall constitute a nuisance. No

Front yard fences, walls and/or non-living screens are prohibited entirely. No hedges, shrubs or other living Landscaping or screen of any kind shall be erected so as to constitute a hazard for vehicular traffic, pedestrians, children, etc., particularly near the entrances to (a) driveway(s) onto a Lot. Any solid hedge within twenty (20) feet of the front Lot line shall be trimmed to a maximum height of three (3) feet.

Back yard fences are required in the Subdivision, but shall extend no further along the Lot line, or otherwise, toward the front of the Lot than even with the front setback of the Residence.

Section 3.19 Landscaping. Only such natural trees and shrubs shall be removed from each Lot as is necessary for clearing the driveway, excavation for the foundation of the Residence or other approved structures, and for lawn, gardens, and patio areas or other amenities. This restriction shall not prohibit any Owner from removing such dead, diseased or undesirable trees or shrubs from the Owner's Lot as the Owner chooses, provided that the area so affected thereby is replanted by the Owner with substitute, suitable trees and other appropriate vegetation in keeping with the spirit and intent of this Declaration to preserve the natural rural atmosphere and beauty of the Subdivision. After the construction of a residence, the landscape plan for each lot shall incorporate a minimum of twelve (12) trees for each one half acre of area. Existing natural foliage may be considered by the Committee in meeting this requirement as landscaping plans are submitted for review. Generally it is intended that Owners should enjoy the benefits of Country Residential zoning (CR-1) as defined in the Alpine City Zoning Ordinance. Owners must use reasonable care and the Committee shall have the authority to require that all orchards, gardens, livestock or animal areas, etc., are maintained in such a manner as to not constitute a nuisance or create a problem for other Owners as is addressed in Article III or elsewhere in this Declaration. All front yards, side yards and rear yards shall be landscaped as to cover an area of at least two thirds (2/3) acre including the Residence as defined in section 3.4. The use of sodded landscaping berms and trees is encouraged in front yard landscaping. However, those portions of rear or side yards which are located on or within natural, wooded hillsides or areas may be maintained with the natural vegetation and trees, consistent with the stated spirit and intent of this Declaration. Each Lot shall be landscaped and maintained in such a manner so as to prevent any erosion or excess drainage thereof on to adjacent streets or adjoining Property.

Section 3.20 Environmental Concerns. If required by Alpine City, all site plans submitted in accordance with Section 3.3 hereof shall address soils, seismic conditions, revegetation of natural areas (indicating areas where natural vegetation is to be removed and plans for the replanting of those areas), and grading of the site, including cuts and fills.

Section 3.21 Deviations. Deviations from the standards set forth in this Declaration will be allowed only upon written approval by the Committee for good cause shown.

ARTICLE IV ARCHITECTURAL CONTROL COMMITTEE

Section 4.1 Committee Appointment and Composition. The Committee shall consist of four members, one of whom need not be a Lot Owner within the Subdivision. The Committee shall act by a majority consent of the members of the Committee. The original members of the Committee shall be Robert L. Mendenhall, Richard L.K. Mendenhall, either Rick or Louise Flygare and a fourth member not yet appointed at the time this Declaration was recorded. Notwithstanding anything to the contrary which may appear elsewhere herein, the Committee members shall be appointed only by the Declarant or its successor, which, at its option, may temporarily delegate or forever assign such powers and responsibilities or other powers and responsibilities given to it by this Declaration, to an assignee. Such assignment shall be in writing and until such assignment, the assignee shall not possess any powers or responsibilities with

storage of articles, materials, Equipment or Vehicles of any nature is permitted in the front portion of any Lot (in front of the front set-back line of the Residence), except that a reasonable number of regularly used passenger cars, in proper working order, may be parked on driveway or off-street parking areas.

Section 3.14 Rubbish and Unsightly Debris, Garbage, Etc.

Notwithstanding any other provision in this Declaration, no Owner shall allow his or her Lot to become so physically encumbered with rubbish, unsightly debris, garbage, equipment, weed growth, or other things or materials so as to constitute an eyesore as reasonably determined by the Association. Within ten (10) days of receipt of written notification by the Association of such failure, the Owner shall be responsible to make the appropriate corrections.

Section 3.15 Temporary Structures, Etc. No structure of a temporary character, or trailer, camper, tent, shack, garage or other outbuilding shall be used on any Lot at any time as a Residence either temporarily or permanently, unless first expressly approved in writing by the Committee.

Section 3.16 Non-Residential Uses Prohibited. No part of the Property shall be used for any commercial, manufacturing, mercantile, vending or other such non-residential purposes, provided however, that professional and administrative occupations may be carried on within the Residence so long as there exists no meaningful external evidence thereof. The Declarant, its successors or assigns may use the Property for a model home site, display and sales office during the construction and sales period.

Section 3.17 Hazardous Materials and Drilling Operations. No Lot Owner shall be allowed to use, generate, place, store, release, or otherwise dispose of any Hazardous Materials on any Lot or within any Improvements on the Lot, except in strict accordance with all Environmental Laws. In the event of a breach of the foregoing, the Owner will undertake remediation or removal in accordance with all Environmental Laws. In addition the Owner will indemnify, defend and hold the Declarant, Declarant's affiliates and all other Owners harmless against and reimburse any damaged party for all Hazardous Materials Liabilities asserted against or incurred by them as a result of a breach of an Owner's obligations under this Section. The term "Hazardous Materials as used herein means any substance 1) the presence of which requires special handling, storage, investigation, notification, monitoring, or remediation under any Environmental law, 2) Which is toxic, explosive, corrosive, erosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous, 3) which is or becomes regulated by any Governmental Authority, or 4) the presence of which causes or threatens to cause a nuisance to the any Owner in the Subdivision. The term "Environmental Laws" refers to all laws relating to 1) emissions, discharges, spills, releases or threatened releases of Hazardous Materials onto land or into ambient air, surface water, groundwater, watercourses, publicly or privately owned treatment works, drains, sewer systems, wetlands, or septic systems, 2) the use, treatment, storage, disposal, handling, manufacturing, transportation, or shipment of Hazardous Materials, or 3) the protection of human health or the environment. The term "Hazardous Materials liabilities" as used herein means all claims, damages, losses, forfeitures, expenses, or liabilities arising from or caused in whole or in part, directly or indirectly, by a breach by an Owner of the provision of this section, including, without limitation, all costs of defense (including reasonable attorneys' fees and other costs of litigation), all consultants' fees, and all costs of investigation, repair, remediation, restoration, cleanup, detoxification or decontamination, and /or preparation and implementation of closure of any remediation action or other required plan.

No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon any Lot nor shall oil wells, tunnels, mineral excavations or shafts be permitted. No derrick or other structure designed for use in drilling for oil or natural gas or water shall be erected, maintained or permitted upon any Lot.

Section 3.18 Fences and Walls, Hedges and Screens. No fences, walls, or non-living screens shall be constructed on any Lot without prior written approval having been obtained from the Committee.

respect to such Committee. No Committee member shall be entitled to any compensation for services performed pursuant to this Declaration. However, the Committee may, at its discretion, employ a professional architect, engineer, attorney, or other consultant or professional, which professional may be a member of the Committee, to assist it in its functions, and a reasonable fee (to be established by the Committee) may be charged to the Lot Owner(s), as applicable, for such services, in which event the provisions of Article VI shall be applicable. No member of the Committee shall be liable to any person for decisions made or failure to act in making decisions as a member of said Committee.

Section 4.2 Scope of Committee Responsibility. Any plans and specifications for the construction or addition of an Improvement upon a Lot within the Subdivision by the Owner thereof must be submitted to the Committee for approval at least thirty (30) days prior to commencing construction. No Improvement shall be commenced, erected, placed or meaningfully altered on any Lot until the plans, specifications and plot plans showing (1) the location on the Lot and nature of such proposed Improvement, (2) all drives, walkways, patios, barbecues, outbuildings, swimming pools, tennis or other sport courts and similar Improvements, the dimensions of all such Improvements and distances between the proposed Improvement and the Lot boundaries and other Improvements on the Lot, (3) elevation of sewer as it relates to Residence elevation; (4) finish grading plans; (5) complete set of architectural documents, and (6) complete set of all exterior colors in the form of samples or color chips, with detailed information as to the location of the color and types of all exterior building materials have been submitted to and specifically approved in writing by the Committee. In making its determination, the Committee may consider such factors as (but not limited to) the quality of workmanship and materials, design, harmony of external design with existing project structures, location with respect to topography and finish grade elevation, preservation and enhancement of the natural beauty of the area and safety. Any subsequent changes, Improvements, or alterations in such plans must be submitted to the Committee for written approval. Some or all of the requirements of this Section may be waived by the Committee, in the Committee's sole discretion, upon request of the Owner, with respect to the Committee's consideration of the approval of a particular Improvement.

The Committee may condition such approval on the Lot Owner depositing cash in the sum of Five Hundred Dollars (\$500.00) with the Committee (the "Deposit"), the purpose of which Deposit shall be to further insure that the Lot Owner (1) fulfill his responsibility to keep his Lot in a condition so as to prevent the rubbish and debris which accumulates during the construction and/or landscaping process from blowing or collecting on neighboring Lots, and (2) reasonably cleans up his or her Lot at or near the completion of the construction and/or landscaping process. The Deposit may be required by the Committee prior to the commencement of construction by an Owner, or at any time during the construction period. If the Lot Owner fails in either of these two responsibilities, the \$500.00 Deposit may be retained by the Committee as a fine upon such Lot Owner or as liquidated damages. Additionally, if any such failure is not remedied by the Owner within fourteen (14) days after written notice thereof, the Committee may remedy such condition itself and in connection therewith, it may have reasonable access to the Lot and shall charge the Lot Owner for the cost of the remedy, in which event the provisions of Article VI shall be applicable. Upon the completion of the construction of the Residence, and the landscaping of the Lot, in a satisfactory manner, the \$500.00 deposit shall be returned to the Lot Owner by the Committee.

Section 4.3 Process of Approval. Plans and resubmittals thereof shall be approved, disapproved or otherwise acted upon in writing by the Committee within thirty (30) days after their submission to the Committee. All plans and specifications and other materials shall be submitted in duplicate. One (1) set shall be returned to the Lot Owner. Any plans and specification shall be approved or disapproved in writing, signed by at least two (2) members of the Committee. Failure of the Committee to respond to a submittal or re-submittal of plans or materials within thirty (30) days of their submission or re-submission shall be deemed to be an approval of plans as submitted or re-submitted by

If, after such plans and specifications have been approved, the Improvements are altered, erected, or maintained upon the Lot otherwise than as approved by the Committee, such alteration, erection and maintenance shall be deemed to have been undertaken without the approval of the Committee having been obtained as required by this Declaration. After the expiration of one (1) year from the date of completion of any Improvement, said Improvement shall, in favor of purchaser and encumbrances in good faith and for value, be deemed to comply with all of the provisions hereof unless a notice of such non-compliance or non-completion, executed by two or more member(s) of the Committee shall appear of record in the office of the County Recorder, or legal proceeding shall have been instituted to enforce compliance with these provisions. The approval of the Committee of any plans or specifications submitted for approval as herein specified for use on any Lot and/or Residence shall not be deemed to be a waiver by the Committee of its right to object to any of the features or elements embodied in such plans and specifications, if or when the same features or elements are embodied in any subsequent plans and specifications submitted for approval as herein provided for use on other Lots or Residences. Upon approval of the Committee acting in accordance with the provision of this Declaration, it shall be conclusively presumed that the location and size of any Improvement does not violate the provisions of this Declaration. Until later published, the address of the Committee may be obtained by contacting Robert L. Mendenhall, 11584 North 6,000 West, Highland, Utah 84003, Telephone (801) 756-3983.

Section 4.4 Termination of Committee. Upon the first to occur of either (1) the completion of the construction of a Residence and the Landscaping upon each Lot, or (2) the date which shall be five (5) years from the date hereof, the Committee shall automatically cease to exist. Any and all rights, duties and/or responsibilities of the Committee shall at that time automatically become the rights, duties and/or responsibilities of the Association without the necessity of the filing of any amendment to this Declaration or any other action.

ARTICLE V

EASEMENTS, HILLSIDE DISTURBANCE AND FLOOD CONTROL, IRRIGATION SYSTEM

Section 5.1 Utility Easements. Easements for installations and maintenance of drainage facilities and public utilities are generally reserved over ten (10) feet of the front, rear and one side of each Lot, and as otherwise identified on the Map of the Subdivision. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may reasonably interfere with or damage utilities or drainage facilities. However, the Committee may approve a structure within the easements such as a fence, wall, landscaping, driveway or off street parking area. It is expressly understood, however, that any such Improvement shall be constructed at the Owner's or the easement holder's sole risk, as the case may be, and as provided in the easement document(s), of having the Improvement partially or wholly removed, dismantled, taken out, or destroyed where necessary because of drainage or public utility servicing, installation, alteration or maintenance. The easement areas within each Lot and all Improvements in such areas shall be maintained continuously by the Owner of the Lot, except for those Improvements for which a public authority or utility company is responsible to maintain.

Section 5.2 Subdivision Entry Monuments. During the course of the construction of the Subdivision improvements the developer may elect to erect subdivision entry monuments on Lots 1 and 20. These entry monuments shall be erected for the benefit of all the Lot Owners in the Subdivision and all Lot Owners shall be responsible for the maintenance or other related costs of the monuments. The monuments shall be located on Lots 1 and 20 near the corner of Matterhorn Drive and Westfield Road and as close to the Subdivision access as is practical. Lots 1 and 20 shall be conveyed subject to easements allowing for the monuments to remain in place so long as a majority of Lot owners are in favor of the monuments, and allowing for reasonable access to and around the monuments for maintenance or

modification as may be required from time to time.

Section 5.3 Grading Approval. All persons erecting or constructing Improvements on any Lot shall comply with the Alpine City Ordinances as may require, among other things, that grading and vegetation plans be approved by the Alpine City Engineer before building permits are issued.

Section 5.4 Flood Control Responsibility. Construction of berms, channels, ditches or other flood control facilities is the sole responsibility of the Lot Owner and shall be done in accordance with the flood control district plans approved by Alpine City and/or Utah County Flood Control if any such plans exist. Such construction shall commence at the time the Lot is graded or otherwise altered from its natural state.

Section 5.5 Pressure Irrigation System. At the time of the recording this Declaration the Alpine City Council has voted in favor of studying the feasibility of constructing a city-wide high pressure irrigation system, which would ultimately serve all Alpine City residents with untreated water for the purposes of landscape and garden irrigation as well as the watering of livestock. This system, should it be made available by the city, is viewed by the Declarant as a significant beneficial amenity to the Subdivision and each Lot Owner. In the event and at the time any such high pressure irrigation system is made available to the Subdivision, each owner shall be obligated to allow for the installation of distribution lines on their lot as may be required to facilitate the distribution of irrigation water to each Lot in the Subdivision or to adjacent properties. The system shall be installed in accordance with the design criteria as established by the Alpine City engineers, and the cost of the installation of the distribution system shall be borne on a pro-rata basis by each Lot Owner. The Declarant shall have the right to act on behalf of all lot owners in contracting for the installation of the Pressure Irrigation system within the Subdivision which shall provide for the distribution of irrigation water to each Lot, and to adjacent properties as may be required. The location of the system's distribution point on each lot shall be determined solely by the Declarant, which determination shall be made in consideration of the most feasible location based on the overall distribution plan for the Subdivision. Each Lot Owner shall hold the Declarant harmless and indemnify the Declarant against any claims for damages or loses associated with the installation of the Pressure Irrigation System.

ARTICLE VI VIOLATIONS AND POWERS OF ENFORCEMENT

Section 6.1 The Association's Powers of Enforcement. Enforcement shall be accomplished by any lawful means, including proceeding at law or in equity against any person or persons violating or attempting to violate any provision herein, either to restrain violation or recover damages. In the event a legal action is instituted by the Association to enforce compliance with or due to a breach of any of the provisions of this Declaration, the party found to have violated any provision(s) of this Declaration shall be liable to the prevailing party for the prevailing party's legal costs and expenses, including a reasonable attorney's fee. Notwithstanding the foregoing, no liability of any nature at all shall attach to the Association, or any member thereof, in acting in good faith pursuant to the provisions of this Declaration. If after fourteen (14) day's written notice, an Owner fails to remedy a violation (the "Defaulting Lot Owner"), another Owner and/or the Association may (in addition to other lawful remedies available to it) cause such violation or condition to be remedied and the cost thereof shall be charged to the Defaulting Lot Owner in which event such costs shall be deemed a special assessment to such Defaulting Lot Owner and shall attach as a lien to the Defaulting Lot Owner's Lot, and shall be subject to levy, enforcement and collection by the other Owner, and/or the Association, in accordance with the assessment lien procedure provided for in this Declaration in this Article VI. Failure to comply with any of the provisions of this Declaration or regulations adopted pursuant thereto shall be grounds for relief which may include, without limiting the same, an action to recover sums due for damages, injunctive relief, foreclosure of lien, or any

combination thereof, which relief may be sought and liberally construed to effectuate its purpose. Any violation of this Declaration shall be deemed to be a nuisance or unreasonable annoyance. Failure to enforce any provisions hereof shall not constitute a waiver of the right to enforce said provision or any other provisions hereof.

Section 6.2 Lien For Assessments. All sums assessed to an Owner pursuant to this Declaration, together with interest thereon at the legal rate of interest from the date of assessment until paid, before or after judgement, shall be secured by a lien on such Lot and the Improvements thereon, in favor of the Association. To evidence a lien for sums assessed pursuant to this Declaration, the Association shall prepare a written notice of lien setting forth the amount of the Assessment, the date due, the amount remaining unpaid, the name of the Owner of the Lot, and a description of the Lot. Such notice shall be signed by a duly authorized representative of the Association and shall be recorded in the Office of the County Recorder for Utah County, State of Utah. Such lien may be enforced by sale or foreclosure of the Lot encumbered by the lien at a foreclosure sale conducted by the Association and generally in accordance with the provisions of Utah law applicable to the exercise of powers of sale or foreclosure under deed of trust or mortgages or in any manner permitted by Utah law. In any such sale or foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding, including but not limited to a reasonable attorneys fee and court costs, and such costs and expenses shall be secured by the lien herein provided whether or not same shall be specifically set forth therein.

Section 6.3 Enforcement by Others. Additionally and after reasonable notice in writing, an Owner not at the time in default hereunder, the Association, or the Declarant, shall have the option of bringing an action for damages, specific performance, or injunctive relief against any defaulting Owner, and in addition may sue to have enjoined any violation of this Declaration. Any judgment shall include an award of the legal costs and expenses, including a reasonable attorney's fee, entered against the losing party and in favor of the prevailing party. Each remedy provided in this Declaration shall be cumulative and not exclusive or exhaustive. Suit to recover a money judgment may be maintained without foreclosure or waiving the lien securing the same.

Section 6.4 Rights of Entry. The Association shall have a limited right of entry in and upon all Lots and the exterior of all Residences for the purpose of taking whatever corrective action it deems necessary or proper. Nothing in this Section or Article shall in any manner limit the right of the Owner to exclusive control over the interior of his or her Residence.

Section 6.5 Committee Authority. The Committee shall have the right to enforce any applicable provision hereof in the same manner provided to the Association.

ARTICLE VII DURATION AND AMENDMENT

Section 7.1 Duration. This Declaration shall continue in full force and effect for a period of fifty (50) years from the date hereof, after which time the same shall be automatically extended for successive periods of ten (10) years, unless a declaration of termination is recorded with the County Recorder of Utah County, meeting the requirements of an amendment to this Declaration as set forth in Section 7.2 of this Article. There shall be no severance by sale, conveyance, encumbrance or hypothecation of an interest in any Lot from membership in the Association as long as this Declaration shall continue in full force and effect.

Section 7.2 Amendment. Notice of the subject matter of a proposed amendment to this Declaration in reasonably detailed form shall be included in the notice of any meeting of the Association either in writing or at a duly called meeting for such purpose.

No amendment to this Declaration shall be effective unless approved in writing by the Owners of not less than two thirds (2/3) of the Lots in the Subdivision at the time of such amendment, including Lots which may be owned by the Declarant.

Notwithstanding the foregoing, however, Declarant may at any time amend this Declaration to qualify the Subdivision with lending institutions and until the close of the escrow established for the sale by Declarant of its last Lot in the Subdivision, Declarant shall have the sole right to terminate or modify this Declaration by recordation of a supplement hereto setting forth such termination or modification. The "close of escrow" shall be deemed to be the date upon which a deed conveying the Lot is recorded.

ARTICLE VIII MISCELLANEOUS

Section 8.1 **Severability.** Invalidation of any one of these covenants, or any portion thereof by judgment or court order shall in no way effect any of the other provisions which shall remain in full force and effect.

Section 8.2 **Singular Includes Plural.** Whenever the context of the Declaration requires the same, the singular shall include the plural, and the masculine shall include the feminine.

Section 8.3 **Covenants, Etc. Shall Run With the Land.** All of the limitations, restriction, easements, conditions and covenants herein shall run with the land and shall be binding on and for the benefit of all the Property and all parties having or acquiring any right, title or interest in the Property or any part thereof and shall inure to the benefit of each owner and are imposed upon the Property as a servitude in favor of each parcel thereof as the dominant tenement or tenements.

Section 8.4 **Limitation on Liability.** Neither the Declarant, its assignee, delegatee, the Committee or the Association shall be liable to any other person for any action or failure to act hereunder where such action or failure was in good faith.

Section 8.5 **Wildlife Area.** The Property encompasses wildlife areas. Owners should expect that wildlife will be in the area and possibly on their own Lot.

Section 8.6 **Paragraph Headings.** The headings which precede the paragraphs and subparagraphs of this Declaration are for convenience only and in no way affect the manner in which any provision hereof is construed.

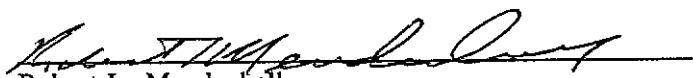
Section 8.7 **Foreclosure.** Should any Mortgage be foreclosed on the Property, then the title acquired by such foreclosure and the person or persons who thereupon and thereafter become the owner or owners of such Property, shall be subject to and bound by all the restrictions enumerated herein.

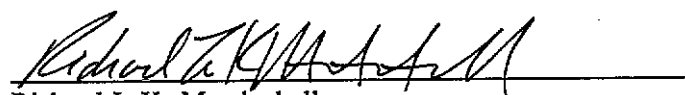
Section 8.8 **Effective Date.** This Declaration and any amendment(s) or supplement(s) thereto shall take effect upon its (their) being filed for record in the Office of the County Recorder of Utah County, Utah.

IN WITNESS WHEREOF, the Declarant has executed this instrument the day and year first hereinabove written.

This declaration dated and executed this 23 day of June, 1994.

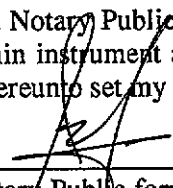
Westfield Oaks L.C.

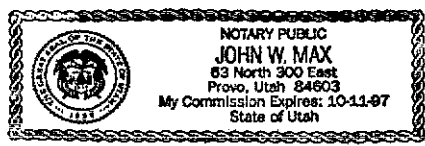

Robert L. Mendenhall
Manager


Richard L.K. Mendenhall
Manager

State of Utah
County of Utah

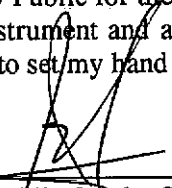
On this 23 day of June, 1994, before me a Notary Public for the State of Utah, Robert L. Mendenhall personally appeared who executed the within instrument and acknowledged to me that he executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.


Notary Public for the State of Utah
Residing at: Provo, Utah
My Commission expires 10/11/97



State of Utah
County of Utah

On this 23 day of June, 1994, before me a Notary Public for the State of Utah, Richard L.K. Mendenhall personally appeared who executed the within instrument and acknowledged to me that he executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.


Notary Public for the State of Utah
Residing at: Provo, Utah
My Commission expires 10/11/97

