

DECLARATION OF COVENANTS, CONDITIONS

AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by

WALLER/FITCH GARDNERVILLE VENTURE, hereinafter referred to as

"Declarant"

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property in Gardnerville,

County of Douglas, State of Nevada, which is a Planned Community and

more particularly described as:

Lots 1 through 26 inclusive, in Block A, together with all common area, as

set forth on the Final Map of GARDEN GLEN PATIO HOMES, a Planned Unit

Development #2000, filed for record in the Office of the County Recorder of

Douglas County, State of Nevada on June 6, 1996, Book 696, Page 789, as

Document No. 389450.

A.P.N's 25-800-01 through 25-800-27

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NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

REPEAL

Declarant, and its predecessor, HICKEY CONSTRUCTION INC., do hereby repeal any covenants, conditions and restrictions heretofore recorded against the subject property.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to GARDEN GLEN HOMEOWNERS ASSOCIATION, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real

property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is described as follows:

All that certain parcel of land situated in the County of Douglas, State of Nevada, filed for record in Book 696 Page 789, Document No. 389450 of the final map.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to WALLER/FITCH GARDNERVILLE VENTURE, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Overall Project Description" shall mean a project known as GARDEN GLEN consisting of twenty six (26) residential units.

Section 8. "Residential Use" shall mean no trade or business of any kind may be conducted in or from a unit or any part of the Association, including business uses ancillary to a primary residential use.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Off Street Parking. Ownership of each Lot shall entitle the owner or owners or guests of owner the use of off street parking space. Parking shall be restricted to automobile use only. Parking will be limited to a.

24 hour time period.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- (b) when Class A membership consists of twenty (20) or more units; or
- (c) on December 31, 1999.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of

Assessments and Charges. The Declarant, for each Lot owned within the Properties, hereby covenants, and each owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area and Private Street.

Section 3. Purpose of Charges. Additional charges will be levied against each lot owner to pay for the services of the Sewer District. The Sewer District will bill the Association directly for services rendered to the Association and for one hook-up to each individual lot.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Five Hundred Dollars and No/100 (\$500.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an owner, the maximum annual assessment may be increased each year not more than ten percent (10%) above the maximum assessment for the previous year without a vote of the membership.

(b) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including 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 who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized

Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 shall be sent to all members not less than thirty (30) days nor more than ten (10) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty per cent (50%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than thirty (30) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the

amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of TEN percent (10%) per annum. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments.

as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

No encroachment into a Common area, exterior change of any kind, nor erection of, placement or posting of any sign, object, including an antenna, light or thing on the exterior of the buildings without first obtaining .

the written approval of the Board of Directors of the Association, or its designated architectural committee. In the event said Board, or its designated architectural committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with..

ARTICLE VI

GENERAL RESTRICTIONS

All Lots shall be owned, held, conveyed, encumbered, leased, used, occupied and enjoyed subject to the Design Guidelines, and the following limitations and restrictions:

Section 1. Single-Family Occupancy. The units in the Association are restricted exclusively to occupancy by a single family.

Section 2. Residential Use. The units in the Association are restricted exclusively to residential use, except that the owner or occupant residing in a unit may conduct such business activities within the unit so long as (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from the exterior of the unit; (ii) the business activity does not involve persons coming into the Association property who do not reside in the Association; (iii) the business activity conforms to all zoning requirements for the property; (iv) the business activity does not increase the liability or casualty insurance obligation or premium of the Association; and

(v) the business activity is consistent with the residential character of the Association and does not constitute a nuisance or a hazardous or offensive use, as may be determined in the sole discretion of the Board of Directors.

Section 3. Unsightly Articles and Outside Storage. No unsightly article shall be permitted to remain on any Lot to be visible from neighboring property or public or private thoroughfares. No Lot shall be used for the drying or hanging area for laundry of any kind if visible from neighboring property. Without limiting the generality of the foregoing, vehicles being stored, or not capable of daily use shall be kept in an enclosed structure. Refuse, garbage and trash shall be kept at all times in a covered container and any such container shall be kept within an area so as not to be visible from neighboring property. No lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials or scrap or refuse or trash shall be kept, stored or allowed to accumulate on any Lot except within an enclosed structure or kept so as not to be visible from neighboring property. No outside storage of bicycles, lawn mowers or any other objects is permitted.

Section 4. Animals. No animals, including but not limited to horses, swine, sheep, bovine, llamas, or other domestic farm or agricultural animals, fowl or reptiles of any kind, except a reasonable number of commonly accepted household pets shall be kept on any Lot. All pets shall be restrained or confined to the Lot and not allowed to run at large. No dog shall be allowed to create an annoyance by loud or incessant barking.

Section 5. Other temporary structures, travel homes and boats. No tent, shack, motor home, camper, trailer, recreational vehicle, boat, or similar items shall be placed upon any property, including the common areas, within the Association.

ARTICLE VII

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot owners,

and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot owners. Any amendment must be recorded.

Section 4. A. Annexation. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

B. Additional land may be annexed by the Declarant without the consent of members within five (5) years of the date of this instrument provided that the FHA and the VA determine that the annexation is in accord with the general plan heretofore approved by them.

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

ARTICLE VIII

PARTY WALLS

Section I. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damages due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs With Land. The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE IX

WATER AND SEWER SERVICE FEES

The Declarant, for each lot owned within the Properties, hereby covenants, each Owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, Sanitation District to submit an invoice for each respective lot for monthly water and sewer fees to Garden Glen Homeowners Association in lieu of submitting individual invoices to the individual Owners. Garden Glen Homeowners Association agrees to pay and be responsible for said water and sewer fees. Further, Declarant for each lot owned within the Properties, hereby agrees that this condition of these CCR's will not be amended without first seeking the consent of the Minden Gardnerville Sanitation District and Gardnerville Town Water Company.

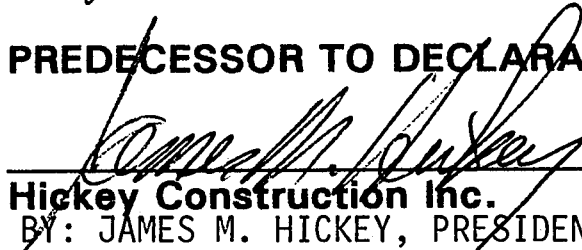
IN WITNESS WHEREOF, the undersigned, being a General Partner of the
/and Predecessor to Declarant
Declarant herein, have hereunto set their hands this 17th day
of April, 1996.





Waller/Fitch Gardnerville Venture
ROBBIE J. WALLER, GENERAL PARTNER

PREDECESSOR TO DECLARANT



Hickey Construction Inc.
BY: JAMES M. HICKEY, PRESIDENT

COPY

REQUESTED BY
WESTERN TITLE COMPANY, INC.
IN OFFICIAL RECORDS OF
DOUGLAS CO., NEVADA.

'96 SEP -5 P3:19

LINDA SLATER
RECORDER

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