

CONFIRMED COPY

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

LAW OFFICES OF SHELLEY M. LIBERTO
3 HUTTON CENTRE, #900
SANTA ANA, CALIFORNIA 92707

Recorded in Official Records, County of Orange
Darlene Bloom, Interim Clerk-Recorder



56.00

20020855694 02:53pm 10/03/02

106 13 A17 26

0.00 0.00 0.00 0.00 50.00 0.00 10.00 0.00

AMENDED AND RESTATED
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF
DEANE GARDENHOME ASSOCIATION

COPY

TABLE OF CONTENTS

RECITALS	1
ARTICLE I -- DEFINITIONS	2
Section 1 – Association	2
Section 2 – Board	2
Section 3 – Declarant	2
Section 4 – Lot	2
Section 5 – Maintenance Area	2
Section 6 – Member	2
Section 7 – Owner	2
Section 8 – Property	3
Section 9 – Rules and Regulations	3
ARTICLE II – NATURE AND PURPOSE OF COVENANTS	3
ARTICLE III – MEMBERSHIP	3
ARTICLE IV – VOTING RIGHTS	3
ARTICLE V – COVENANT FOR MAINTENANCE ASSESSMENTS	4
Section 1 – Covenant to Pay Assessment	4
Section 2 – Purposes of Assessments	4
Section 3 – Basis and Maximum and Minimum of Annual Assessments	4
Section 4 – Special Assessments for Capital Improvements	5
Section 5 – Reimbursement Assessments	5
Section 6 – Uniform Rate of Assessment	6
Section 7 – Due Date of Annual Assessments	6
Section 8 – Effect of Nonpayment of Assessments; Remedies of the Association	6
Section 9 – Subordination of the Lien to Mortgage	8
ARTICLE VI – DUTIES AND POWERS OF THE ASSOCIATION	8
Section 1 – General Powers of the Association	8
Section 2 – General Duties of the Association	9
Section 3 – Restrictions on Power of the Board	9
Section 4 – Association Rules	9
Section 5 – Rights of Association to Maintain	10

ARTICLE VII – PARTY WALLS	10
Section 1 – General Rules of Law to Apply	10
Section 2 – Repair and Maintenance	10
Section 3 – Right to Contribution Runs With Land	10
Section 4 – Arbitration	11
ARTICLE VIII – MEMBER WALLS	11
Section 1 – Ownership	11
Section 2 – Maintenance and Repair	11
Section 3 – Destruction and Reconstruction	11
Section 4 – Default of Owner	11
Section 5 – Easement of Entry	11
ARTICLE IX – ARCHITECTURAL CONTROL	12
Section 1 – Architectural Committee	12
Section 2 – Review of Plans and Specifications	12
Section 3 – Meetings of the Architectural Committee	13
Section 4 – No Waiver of Future Approvals	13
Section 5 – Compensation of Members	13
Section 6 – Inspection of Work	13
Section 7 – Nonliability of Architectural Committee Members	14
Section 8 – Variance	14
ARTICLE X – EXTERIOR MAINTENANCE	15
ARTICLE XI – USE RESTRICTIONS	15
Section 1 – Land Use	15
Section 2 – Buildings	16
Section 3 – Maintenance	17
Section 4 – Signs	17
Section 5 – Animal Restrictions	17
ARTICLE XII – GENERAL PROVISIONS	18
Section 1 – Enforcement	18
Section 2 – Severability	19
Section 3 – Amendment	19
Section 4 – Mortgage Protection Clause	19
Section 5 – Original Declaration	20
EXHIBIT 1 - Attached	

AMENDED AND RESTATED
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF
DEANE GARDENHOME ASSOCIATION

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration") is made as of this 18 day of June, 2002, by the parties whose names are included on the schedule attached hereto as Exhibit "1" (collectively, the "Declarant").

RECITALS

A. Declarant consists of the owners of at least seventy-five percent (75%) of the lots in the real property in Orange County, California, described as follows:

PARCEL A: Lots 1 to 9 inclusive, 15 to 25 inclusive, 30 to 38 inclusive, 44 to 63 inclusive, 69 to 80 inclusive, 86 to 97 inclusive and 103 to 139 inclusive of Tract No. 5755, as per map recorded in Book 219, Pages 26 and 27 of Miscellaneous Maps, in the office of the County Recorder of said County.

PARCEL B: Parcels 1 to 5 inclusive, as shown on a map recorded in Book 9, Page 10 of Parcel Maps, in the office of the County Recorder of said County.

PARCEL C: Parcels 1 to 5 inclusive, as shown on a map recorded in Book 9, Page 11 of Parcel Maps, in the office of the County Recorder of said County.

PARCEL D: Parcels 1 to 5 inclusive, as shown on a map recorded in Book 9, Page 12 of Parcel Maps, in the office of the County Recorder of said County.

PARCEL E: Parcels 1 to 5 inclusive, as shown on a map recorded in Book 9, Page 13, of Parcel Maps, in the office of the County Recorder of said County (the "Property").

B. Declarant desires, by adoption of this Declaration, to amend and restate that certain Declaration of Covenants, Conditions and Restrictions recorded on the August 16, 1967, as Instrument No. 11433, in Book 8343, Pages 721 et seq. of Official Records of Orange County, California, as amended by those certain documents recorded December 18, 1967, as Instrument No. 11661, in Book 8468, Pages 664 et seq., January 10, 1968, as Instrument No. 5732, in Book 8488, Pages 864 et seq., and June 15, 1982, as Document No. 82-203389 of the Official Records of Orange County, California (collectively, "Original Declaration").

C. Declarant desires to impose a general plan for the improvement and development of the Property and the adoption and establishment of covenants, conditions and restrictions upon the Property and each and every portion thereof and upon the use, occupancy and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property.

D. Declarant hereby declares that all of the Property shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following easements, restrictions, covenants, conditions and equitable servitudes, all of which are for the

purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Property, in furtherance of a general plan for the protection, maintenance and improvement of the Property or any portion thereof. The covenants, conditions, restrictions, reservations, easements and equitable servitudes set forth herein shall run with the Property and shall be binding upon all persons having any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns; shall inure to the benefit of every portion of the Property and any interest therein; shall inure to the benefit of and be binding upon Declarant, each owner and their respective heirs, successors, assigns, executors and administrators; and may be enforced by Declarant, by any Member and/or by the Association.

ARTICLE I DEFINITIONS

Section 1. Association. The term "Association" shall mean and refer to DEANE GARDENHOME ASSOCIATION, a nonprofit mutual benefit corporation formed under the California Nonprofit Corporation Law, its successors and assigns.

Section 2. Board. The term "Board" shall mean the Board of Directors of the Association.

Section 3. Declarant. The term "Declarant" shall mean and refer to those owners whose names are included on the schedule attached hereto as Exhibit "1".

Section 4. Lot. The term "Lot" shall mean and refer to each parcel of real property in the Property as shown with a separate and distinct number or letter on a final subdivision map or parcel map duly recorded or filed in the office of the County Recorder of Orange County, California.

Section 5. Maintenance Area. The term "Maintenance Area" shall mean those portions of the Property (a) located within the area bounded by the outside linear edge of each public street and sidewalk on one side, and the paint on the walls on each Lot on the other side, and (b) the area within the street planters located in the cul-de-sacs within the Property.

Section 6. Member. The term "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 7. Owner. The term "Owner" shall mean and refer to record owner, whether one or more persons or entities, of fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 8. Property. The term "Property" shall mean and refer to all of the real property described in Recital A to this Declaration.

Section 9. Rules and Regulations. The term "Rules and Regulations" shall mean the rules and regulations adopted by the Board pursuant to its By-Laws, as such rules and regulations may be amended from time to time.

ARTICLE II
NATURE AND PURPOSE OF COVENANTS

The covenants, conditions and restrictions set forth in this Declaration constitute a general scheme for the development, protection and maintenance of the Property to enhance the value, desirability and attractiveness of the Lots for the benefit of all of the Owners. These covenants, conditions and restrictions are imposed upon the Owners of all Lots. Said covenants, conditions and restrictions are for the benefit of all Lots, and shall bind the Owners of all Lots. Such covenants, conditions and restrictions shall be a burden upon and a benefit to not only the original Owner of each Lot, but also his successors and assigns. All such covenants, conditions and restrictions are intended as and are hereby declared to be covenants running with the land or equitable servitudes upon the land, as the case may be.

ARTICLE III
MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. A Member may not own more than one membership in the Association but a Member shall have one (1) vote for each Lot owned, in accordance with the Association's By-Laws. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

All Owners shall be absolutely liable and responsible for compliance with the Declaration, the Association's By-Laws and the Rules and Regulations by themselves, their families, guests, tenants and others on the Property by virtue of a relationship of any sort with such Owners. The Board may impose any sanction whatsoever within its power against any such Owner for a violation of the Declaration, the Association's By-Laws and/or the Rules and Regulations by such Owner, His family, guests, tenants and/or others on the Property by virtue of a relationship of any sort with such Owner.

ARTICLE IV
VOTING RIGHTS

In all matters which shall be presented for a vote of the members, each Member shall be entitled to one (1) vote for each Lot owned; provided, however, that Members shall have the right to cumulate their votes for any election or removal of directors of the Association as provided in the Association's By-Laws and by law. Except as otherwise expressly provided in the Association's By-Laws, its Articles or this Declaration, a majority of the voting power of the Members present, in person or by proxy, at a meeting of the Members shall prevail on all questions.

ARTICLE V
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Covenant to Pay Assessment. Each Owner of any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual or regular assessments or charges, (2) special assessments for capital improvements, and (3) Reimbursement Assessments (defined in Section 5 of this Article), all such assessments to be established and collected as hereinafter provided. The annual assessments or charges must be in an amount sufficient to include an adequate reserve fund for maintenance, repairs and replacement of those portions of the Maintenance Area that must be replaced on a periodic basis, and this reserve fund must be collected as an annual assessment rather than as a special assessment. Each of such assessments, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment fell due. The personal obligation for delinquent assessments shall not pass to such person's successors in title unless expressly assumed by them.

Section 2. Purposes of Assessments. The assessments levied by the Association shall be used exclusively for the following purposes:

- (a) to paint the exterior surfaces of Members' walls facing the Maintenance Area and Bushard Street;
- (b) to provide landscape planning and maintenance service for the Maintenance Area, including, but not limited to, the provision of plants, trees and shrubs;
- (c) to provide or supply any other materials, supplies, equipment, labor, services, maintenance, nonstructural repairs or alterations, insurance, taxes or assessments which the Association is required to secure or pay for under its Articles of Incorporation, its By-Laws, the Declaration, by law or which in the opinion of the Association's Board of Directors shall be necessary or proper for the maintenance of the Maintenance Area and/or the performance of any other duty of the Association under this Declaration or its Articles or By-Laws.

Section 3. Basis and Maximum and Minimum of Annual Assessments. Prior to January 1, 1968, the maximum annual assessment shall be Ninety-six Dollars (\$96.00) per Lot. In no event shall the annual assessment be less than Sixty Dollars (\$60.00) per Lot.

(a) From and after January 1, 1968, the maximum annual assessment may be increased effective January 1 of each succeeding year without a vote of the membership in conformance with the increase, if any, of the Consumer Price Index for All Urban Consumers, Los Angeles-Long Beach-Anaheim Metropolitan Area, as published in the preceding month of August by the Bureau of Labor Statistics of the United States Department of Labor, for the twelve (12) month period ending with the preceding month of July. In the event such Consumer Price Index is no longer published or is published with reference to a different base year than prior years' indices, the Board may select an appropriate successor index by which future permissible increases in the annual assessments are to be calculated and/or may make an appropriate conversion between the indices for different years necessary because the indices for such years are stated with reference to different base years. All of such increases shall be cumulative from year to year and may be calculated in any particular year as if all permissible

increases by virtue of the Consumer Price Index had been made by the Association for all previous years.

(b) From and after January 1, 1968, the maximum annual assessment may be increased above that established by the foregoing Consumer Price Index formula by a vote of the Members for the next succeeding two (2) years, and at the end of each such period of two (2) years, for each succeeding period of two (2) years, provided that any such change shall have the assent of two-thirds (2/3) of the votes of the Members who are voting in person or by proxy, at a meeting duly called in accordance with the By-Laws. The limitations hereof shall not apply to any change in the maximum and basis of the annual assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

(c) After consideration of current maintenance costs and future needs of the Association, 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 restoration, repair or replacement of landscaping related improvements within the Maintenance Area including sprinkler systems, landscaping, and other improvements related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the Members who are voting in person or by proxy, at a meeting duly called in accordance with the By-Laws. The foregoing limitation on special assessments shall not apply to any Reimbursement Assessment which is authorized by the provisions of this Declaration.

Section 5. Reimbursement Assessments. In addition to the annual assessments and special assessments authorized above, the Association may levy an assessment ("Reimbursement Assessment") against any Owner who fails to comply with the provisions of this Declaration, the determinations of the Architectural Committee, the Association's Articles or By-Laws, and/or any of the Rules and Regulations, if such failure results in the expenditure of monies by the Association in carrying out its functions hereunder or for purposes of collecting any fines which may be levied by the Association. Except for collection of fines, such Reimbursement Assessments shall be for the purpose of reimbursing the Association and shall be limited to the amount so expended. All Reimbursement Assessments shall be for the purpose of reimbursing the Association and shall be limited to the amount so expended. All Reimbursement Assessments shall be due and payable to the Association when levied.

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

Section 7. Due Date of Annual Assessments. At least thirty (30) days advance written notice of the annual assessment shall be sent to every Owner subject thereto. The due date shall be January 1, the first day of each calendar year. The Association shall upon demand at any

time furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Any such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. Each Owner, on becoming an Owner, shall be deemed to covenant and agree to pay to the Association all of the assessments provided for in this Declaration and to be subject to the enforcement of all such assessments in the manner herein specified. In the event an attorney or attorneys are employed for collection of any assessment, whether by suit or otherwise, or to enforce compliance by specific performance of the terms and conditions of this Declaration, each Owner agrees to pay reasonable attorneys' fees and costs thereby incurred in addition to any other amounts due or any other relief or remedy obtained against said Owner. Any Assessment not paid within fifteen (15) days after the date on which it becomes due shall thereafter bear interest from the date of delinquency at the rate of ten percent (10%) per annum or Ten Dollars (\$10) per month, whichever is greater, shall be assessed. In addition to any other remedies herein or by law provided, the Board or its authorized representative may enforce the obligations of the Owners to pay the assessments provided for in this Declaration in any manner provided by law or in equity, or without any limitation of the foregoing, by either or both of the following procedures;

(a) Enforcement by Suit. By commencement and maintenance of a suit at law against any Owner or Owners personally obligated to pay assessments for such delinquent assessments as to which they are personally obligated, such suit to be maintained in the name of the Association. Any judgment rendered in any such action shall include the amount of the delinquency, together with interest thereon as provided for herein, costs of collection, court costs and reasonable attorneys' fees in such amount as the court may adjudge against the delinquent Owner. Suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving the lien hereinafter provided for.

(b) Enforcement by Lien. There is hereby created a claim of lien, with power of sale, on each and every Lot to secure payment to the Association of any and all assessments levied against any and all Owners of such Lots pursuant to this Declaration, together with interest thereon as provided for in this Declaration, and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorneys' fees. Said demand shall state the date and amount of the delinquency. Each delinquency shall constitute a separate basis for a demand or claim of lien or a lien, but any number of defaults may be included within a single demand or claim of lien and any demand or claim of lien, or lien on account of prior delinquencies, shall be deemed to include subsequent delinquencies and amounts due on account thereof. If such delinquency is not paid within ten (10) days after delivery of such demand, the Board or its duly authorized representative may thereafter elect to file and record a notice of assessment on behalf of the Association against the Lot of the defaulting Owner in the Office of the County Recorder of Orange County. Such notice of assessment shall be executed and acknowledged by any officer of the Association and shall contain substantially the following information:

- (1) The name of the record Owner;
- (2) The legal description of the Lot against which claim of lien is made;
- (3) The total amount claimed to be due and owing for the amount of the delinquency, interest thereon, collection costs, and estimated attorneys' fees (with any proper offset allowed);
- (4) That the claim of lien is made by the Association pursuant to this Declaration; and
- (5) That a lien is claimed against said Lot in an amount equal to the amount stated, together with all other amounts becoming due from time to time in accordance with this Declaration.

Upon such recordation of a duly executed original or copy of such a claim of lien, the lien claimed therein shall immediately attach and become effective in favor of the Association as a lien upon the Lot against which such assessment was levied. Such a lien shall have priority over all liens or claims created subsequent to the recordation of this Declaration, except for tax liens for real property taxes on any Lot and assessments on any Lot in favor of any municipal or other governmental assessing unit, and except for certain Trust Deeds as provided in Section 9 of this Article. Any such lien may be foreclosed by appropriate action in Court or in the manner provided by the California Civil Code for the foreclosure of a deed of trust with power of sale, or in any other manner permitted by law. The Board is hereby authorized to appoint its attorney, any officer or director of the Association, or any title company authorized to do business in California as Trustee for the purpose of conducting such power of sale foreclosure. The lien provided for herein shall be in favor of the Association, shall be for the benefit of all other Lot Owners and shall secure payment of all sums set forth in the notice of assessment, together with all sums becoming due and payable in accordance with this Declaration after the date of recordation of said notice of assessment. The Association shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any Lot. In the event such foreclosure is by action in Court, reasonable attorneys' fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law. Each Owner, by becoming an Owner of a Lot, hereby expressly waives any objection to the enforcement and foreclosure of this lien in this manner. Upon the timely curing of any default for which a notice of assessment was filed by the Board and the payment of all sums secured by the lien created by the recordation of such notice of assessment, the Board shall cause an officer of the Association to file and record an appropriate release of such notice of assessment in the Office of the County Recorder of Orange County, California. No Owner may waive or otherwise escape liability for the assessments provided for in this Declaration by non-use or abandonment of his Lot. Notwithstanding anything contained in this Declaration to the contrary, no action may be brought to foreclose the lien created by recordation of a notice of assessment, whether judicially, by power of sale, or otherwise, until the expiration of ten (10) days after a copy of said notice of assessment, showing the date of recordation thereof, has been mailed to the Owner of the lot which is described in such claim of lien.

Section 9. Subordination of the Lien to Mortgage. The lien for the assessments provided for herein shall be subordinate to the lien of any mortgage or deed of trust. Sale or transfer of

any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to a judicial foreclosure, a foreclosure under power of sale or any proceeding in lieu of foreclosure, shall extinguish the lien of such assessments as to payments thereof which became due prior to such sale or transfer, but there shall be a lien on the interest of the purchaser at such sale to secure all assessments accruing and arising after the date of any such sale, which lien shall have the same effect and be enforced in the same manner as so provided herein. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VI
DUTIES AND POWERS OF THE ASSOCIATION

Section 1. General Powers of the Association. All powers relating to the management, operation and maintenance of the Maintenance Area, as well as certain rights, duties and powers relating to the Lots, as hereinafter set forth, shall be vested in the Association and the Board. The specific and primary purposes and powers of the Association and the Board are to provide for the operation, control, repair, maintenance and restoration of the Maintenance Area, to provide architectural control of the Property, and to enforce the provisions of this Declaration and the Association's Articles and By-Laws, and any other instruments relating to the management and control of the Association and the Property. The Association may do any and all other acts and things that a nonprofit corporation is empowered to do, which may be necessary, convenient or desirable in the administration of its affairs for the specific and primary purposes of meeting its duties as set forth in this Declaration. The Association, through the Board, shall have the authority to delegate its powers to committees, officers of the Association or its agents.

Section 2. General Duties of the Association. In addition to the duties and powers enumerated in its Articles of Incorporation and By-Laws, or elsewhere provided in this Declaration, and without limiting the generality thereof, and subject to the limitations on the power of the Board as set forth in Section 3 of this Article, the Association, acting through the Board, shall:

- (a) Maintain the Maintenance Area in a good, sanitary and attractive condition and in a manner which is in accordance with such standards for maintenance as may be prevalent in the neighborhood and as may be required from time to time by the City of Huntington Beach;
- (b) Maintain such policy or policies of insurance as the Board deems necessary or desirable in furthering the purposes of and protecting the interests of the Association and its Members including, but not limited to, hazard and liability insurance, fidelity bonds, workmen's compensation and officers' and directors' liability insurance;
- (c) Have the authority to obtain for the benefit of the Maintenance Area all utility services, unless such services are separately charged to the Owners;
- (d) Pay taxes and assessments which are or could become a lien on the

Maintenance Area, if any, or some portion thereof;

(e) Prepare budgets and financial statements for the Association and its Members as prescribed in the By-Laws of the Association;

(f) Initiate and execute disciplinary proceedings against Members of the Association for violations of this Declaration, the Association's Articles of Incorporation, its By-Laws and/or the Rules and Regulations in accordance with the procedures set forth in this Declaration and in its By-Laws.

Section 3. Restrictions on Power of the Board. In addition to any other specific prohibition contained in this Declaration, the Board shall be prohibited, without the prior vote or written assent of a majority of the voting power of the Association, from doing any of the following: (i) paying compensation to members of the Board or to officers of the Association for services performed in the conduct of the Association's business; provided, however, that the Board may cause a member or officer to be reimbursed for expenses incurred in carrying on the business of the Association; and (ii) filling of a vacancy on the Board created by removal of a Board member.

Section 4. Association Rules. The Board shall have the power to adopt, amend, and repeal such rules and regulations ("Rules and Regulations") as it deems reasonable, which may include the establishment of a system of fines and penalties enforceable as Reimbursement Assessments as provided in this Declaration and in the By-Laws of the Association. The rules of the Association shall govern such matters in furtherance of the purposes of the Association, including, without limitation, the use of the Maintenance Area ; provided, however, that the rules of the Association may not unreasonably discriminate among Owners, and shall not be inconsistent with this Declaration, the Articles or By-Laws. Any rule of the Association which imposes a system of fines or penalties must provide that the accused be given notice and the opportunity to be heard by the Board with respect to the alleged violations before a decision to impose discipline is imposed. A copy of the Rules and Regulations as they may from time to time be adopted, amended or repealed, and notices setting forth the adoption, amendment or repeal of specific portions of the Rules and Regulations, shall be delivered to each Owner in the same manner established in the By-Laws of the Association for the delivery of notices. Upon completion of the notice requirements, the Rules and Regulations shall have the same force and effect as if they were set forth in and were part of this Declaration and shall be binding on the Owners and their successors in interest whether or not actually received thereby. The Rules and Regulations, as adopted, amended or repealed, shall be available at the principal office of the Association to each Owner, and Institutional Holder of a Mortgage upon request. In the event of any conflict between any of the Rules and Regulations and any other provisions of this Declaration, or the Articles or By-Laws, the provisions of the Rules and Regulations shall be deemed to be superseded by the provisions of this Declaration, the Articles or the By-Laws to the extent of any such conflict.

Section 5. Rights of Association to Maintain. In the event an Owner fails to maintain the landscaping on his Lot, the Association may, but shall not be obligated to, cause such

maintenance to be accomplished. In the event the Association elects to cause such maintenance to be accomplished, the cost of all or any portion of such maintenance shall be deemed to be a Reimbursement Assessment to the affected Owner and residence.

ARTICLE VII PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is: (a) built as a part of the original construction of the homes upon the Property and placed on the rear dividing line between the Lots, or (b) in those instances where a wall forms the common side of two (2) homes constructed on adjoining Lots, shall constitute a party wall and, to the extent not inconsistent with the provisions of this Article, California law regarding party walls, and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Repair and Maintenance. The owners who make use of a party wall shall bear full and exclusive responsibility for repair and maintenance of the party wall.

Section 3. Right to Contribution Run 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 4. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, the dispute shall first be submitted to non-binding arbitration, as a precondition to filing any legal action, in accordance with the commercial arbitration rules of the American Arbitration Association.

ARTICLE VIII MEMBER WALLS

Section 1. Ownership. Except as otherwise provided in Section 1 of Article VII hereof, each wall originally built as: (1) A front or side of a house constructed on a Lot; (2) a wall which extends along the front side or corner of a Lot; and (3) the rear walls on Bushard Street, shall all be owned entirely by the Owner of said Lot ("Member Wall").

Section 2. Maintenance and Repair. Except as provided in Article X of this Declaration, each Owner of a Member Wall shall, at his sole cost and expense, maintain and repair both sides of the Member Wall and keep the same in good condition and make all structural repairs as may be required, all in a manner satisfactory to the Board except paint on the exterior surface which shall be the responsibility of the Association. Any such maintenance shall utilize materials conforming to the list of approved finishes and colors promulgated in accordance with Section 1 of Article IX of this Declaration.

Section 3. Destruction and Reconstruction. In the event of partial or total destruction of a Member Wall, the Owner thereof shall, in a manner satisfactory to the Board, and at such Owner's sole cost and expense, reconstruct the same as soon as reasonably possible in

accordance with the original plans and specification therefor, and approval of the Architectural Committee.

Section 4. Default of Owner. In the event that an Owner of a Member Wall fails to comply with Sections 2 and 3 of this Article, the Board shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain and restore said front or side wall, and the cost thereof shall be deemed to be a Reimbursement Assessment to the affected Owner and Lot.

Section 5. Easement of Entry. Each Owner of a Member Wall shall have, solely for the purpose of enabling each Owner to comply with the provisions of this Article VIII, an irrevocable, nonexclusive easement of entry on, over and across the Lot immediately adjacent to said wall. Said easement shall be of a general and undefined nature which will permit ready access to said wall from the street; provided, however, that in the use thereof, due care shall be used so as not to damage said adjacent Lot or any property located thereon. Twenty-four hours notice of an intent to enter and the reasons therefor, shall be given to the Owner of the adjacent Lot.

ARTICLE IX ARCHITECTURAL CONTROL

Section 1. Architectural Committee. The Board of Directors may serve as the Architectural Committee, or the Board may appoint (and remove as it wishes) at least three (3) Members to serve in such capacity. The Architectural Committee shall have the right and duty to promulgate reasonable standards against which to examine any request made pursuant to this Article, in order to ensure that the proposed plans conform harmoniously to the exterior design and existing materials of the buildings in the Project. Specifically, the Architectural Committee shall promulgate a list of approved finishes and colors for the exterior surfaces of all structures within the Property, including, but not limited to, all party, front and side walls. Upon such promulgation, all exterior painting, repainting, finishing and refinishing performed by or at the direction of the Board and/or any Member shall be performed only with materials and processes conforming to such approved finishes and colors.

Section 2. Review of Plan and Specifications. The Architectural Committee shall consider and act upon any and all plans and specifications submitted for its approval under this Declaration and perform such other duties as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with plans approved by Architectural Committee. No construction, alteration, addition, modification, decoration, redecoration or reconstruction of any improvement whatsoever in the Property shall be commenced or maintained after the adoption of this Declaration, until the plans and specifications therefor showing the nature, kind, shape, height, width, color materials and location of the same shall have been submitted to the Architectural Committee and approved in writing by the Architectural Committee. The address for submission of such plans and specifications shall be the address of the principal place of business of the Association. The

Architectural Committee shall approve plans and specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area of the Property as a whole, that the appearance of any structure affected thereby will be in harmony with the surrounding structures, that the construction thereof will not detract from the beauty, wholesomeness and attractiveness of the Property or the enjoyment thereof by the Members, and that the upkeep and maintenance thereof will not become a burden to the Association. The Architectural Committee may condition its approval of proposals or plans and specifications for any improvement on such changes therein as it deems appropriate and may require submission of additional plans or specifications or other information prior to approving or disapproving any material submitted. The Architectural Committee may also issue rules or guidelines setting forth procedures for the submission of plans for approval, requiring a fee payable to the Association to accompany each application for approval, or additional factors which it will take into consideration in reviewing submissions. The Architectural Committee may provide that the amount of such fee shall be uniform, or that it be determined in any other reasonable manner, such as by the reasonable cost of the construction, alterations or additions contemplated. The Architectural Committee may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior materials and colors. Decisions of the Architectural Committee and the reasons therefor shall be transmitted by the Architectural Committee to the applicant at the address set forth in the application for approval, within sixty (60) days after receipt by the Architectural Committee of all materials required by the Architectural Committee. Any application submitted pursuant to this Section 2 shall be deemed approved, unless disapproval or a request for additional information or materials by the Architectural Committee shall have been transmitted to the applicant within sixty (60) days after the date of receipt by the Architectural Committee of such application or additional information.

Section 3. Meetings of the Architectural Committee. The Architectural Committee shall meet from time to time as necessary to perform its duties hereunder. The Architectural Committee may from time to time, by resolution unanimously adopted in writing, designate an Architectural Committee representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the Architectural Committee, except the granting of variances pursuant to Section 8 of this Article. In the absence of such designation, the vote of any two (2) members of the Architectural Committee taken without a meeting, shall constitute an act of the Architectural Committee.

Section 4. No Waiver of Future Approvals. The approval of the Architectural Committee to any proposals or plans and specification or drawings for any work done or proposed or in connection with any other matter requiring the approval and consent of the Architectural Committee, shall not be deemed to constitute a waiver or any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matter whatever subsequently or additionally submitted for approval or consent by the same or any other Member.

Section 5. Compensation of Members. The members of the Architectural Committee

shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performances of their duties hereunder.

Section 6. Inspection of Work. Inspection of work and correction of defects therein shall proceed as follows:

(a) Upon the completion of any work for which approved plans are required under this Article, the Owner shall give written notice of completion to the Architectural Committee.

(b) Within sixty (60) days thereafter, the Architectural Committee or its duly authorized representative may inspect such improvement. If the Architectural Committee finds that such work was not done in substantial compliance with the approval of plans, or was performed without the prior submission and approval of plans and specifications therefor, it shall notify the Owner in writing of such noncompliance within such sixty (60) day period, specifying the particulars of noncompliance, and shall require the Owner to remedy the same.

(c) If upon the expiration of thirty (30) days from the date of such notification the Owner shall have failed to remedy such noncompliance, the Architectural Committee shall notify the Board in writing of such failure. After affording such Owner notice and hearing, the Board shall determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing same. If a noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date of announcement of the Board ruling. If the Owner does not comply with the Board ruling within such period, the Board, at its option, may record a notice of noncompliance in the Office of the Orange County Recorder and may peacefully remove the noncomplying improvement or otherwise peacefully remove the noncompliance, and the Owner shall reimburse the Association, upon demand, for all expenses incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the Association, the Board shall levy a Reimbursement Assessment against such Owner for reimbursement.

(d) If for any reason the Architectural Committee fails to notify the Owner of any noncompliance within sixty (60) days after receipt of said written notice of compliance from the Owner, the improvement shall be deemed to be in accordance with said approved plans.

Section 7. Nonliability of Architectural Committee Members. Neither the Architectural Committee, any member of the Architectural Committee, the Board nor their duly authorized representative, shall be liable to the Association, or to any Owner for any loss, damage or injury arising out of or in any way connected with the performance of the Architectural Committee's duties hereunder, unless due to the willful misconduct or bad faith of the Architectural Committee. The Architectural Committee shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition, solely on the basis of aesthetic considerations and the over-all benefit or detriment which would result to the immediate vicinity and the Property generally. The Architectural Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings,

landscaping, color schemes, exterior finishes and materials and similar features. The Architectural Committee's approval or disapproval shall be based solely on the consideration set forth in this Article, and the Architectural Committee shall not be responsible for reviewing, nor shall its approval of any plan be deemed approval of, any plans or design from the standpoint of structural safety or conformance with building or other codes.

Section 8. Variance. The Architectural Committee may authorize variances from compliance with any of the architectural provisions of this Declaration, including without limitation, restrictions upon height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. Such variances must be evidenced in writing, must be signed by at least two (2) members of the Architectural Committee, and shall become effective upon recordation in the Office of the County Recorder of Orange County. If such variances are granted, no violation of the covenants, conditional and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance. Nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting use of the premises, including, but not limited to, zoning ordinances and lot set back lines, or requirements imposed by the City of Huntington Beach, or any other governmental authority.

ARTICLE X EXTERIOR MAINTENANCE

In addition to landscaping and landscape maintenance upon the Maintenance Area, the Association shall be responsible for painting the exterior surfaces of Member Walls. In the event that the need for painting to exterior surfaces is caused through the willful or negligent act of an Owner, his family, guests, tenants or others on the Property by virtue of a relationship of any sort with such Owner, the cost painting shall be collected from such Owner by the Association as a Reimbursement Assessment.

ARTICLE XI USE RESTRICTIONS

Section 1. Land Use.

(a) No noxious or offensive activities (including, but not limited to, the outdoor repair of automobiles either for profit or otherwise) shall be carried on upon a Lot or any portion thereof, nor on any street, nor shall anything be done or maintained on any Lot which may be or become an annoyance or nuisance to the neighborhood.

(b) Any inoperable vehicle shall be stored only in an enclosed garage. No Owner shall park, store or keep on any Lot or street (public or private) within the Property any commercial-type vehicle (including, but not limited to, any dump truck, cement mixer truck, oil

or gas truck or delivery truck), any recreational vehicle (including, but not limited to, any camper unit or motor home), any bus, trailer, trailer coach, camp trailer, boat, aircraft, mobile home, inoperable vehicle or any other similar vehicle or any vehicular equipment, mobile or otherwise, deemed to be a nuisance by the Board, upon any unenclosed parking space, so as to be visible from anywhere in the Property. The above prohibition excludes camper trucks and similar vehicles up to and including three-quarter (3/4) ton rating when used for everyday-type transportation and subject to approval by the Board. No Owner of a Lot shall conduct repairs or restorations of any motor vehicle, boat, trailer, aircraft or other vehicle upon any portion of any Lot or upon the Maintenance Area, except wholly within the Owner's garage, and then only when the garage door is closed; provided, however, that such activity shall at no time be permitted if it is determined by the Board to be a nuisance. Garage doors shall remain closed except for reasonable periods during the day.

(c) No boat, truck or trailer shall be used as a living area while located on any Lot or portion thereof.

Section 2. Buildings.

(a) No primary building shall be erected, altered, placed, or permitted to remain on any Lot other than one detached single family dwelling not to exceed two stories in height, a private garage for not more than three cars which, subject to the provisions hereof, may or may not be attached to the primary building, and one accessory building.

(b) No projection of any type shall be placed or permitted to remain above the roof of any building with the exception of one or more chimneys, one or more vent stacks, and solar energy systems approved as provided in this subsection. Unless approved in advance by the Architectural Committee, no basketball standard shall be constructed, erected, or maintained on any building or on any Lot or connected in a manner visible so as to be visible from the outside of any building. Portable basketball standards may be used provided they are stored outside of public view when not in use. In addition, to the maximum extent allowed by law, the Architectural Committee may reasonably regulate the size, design and placement of solar energy systems any part of which is visible from another portion of the Property.

(c) All improvements upon the Property shall at all times be maintained in good condition and repair, as determined by the Board.

(d) All yards and clothesline areas on any Lot or portion of the Lot shall, subject to the provisions hereof, shall be enclosed or fenced in such a manner that such yards or areas will be obstructed from view from any Lot or street on the same or substantially similar grade.

(e) No building shall be located on any Lot less than ten (10) feet from the front lot line; provided, however, that Lots facing onto cul-de-sac streets shall have buildings located directly on the front lot lines. Buildings which have side walls forming sides thereof shall be located zero feet from the side lot line upon which said side wall is built; provided,

however, that no building shall be located less than ten (10) feet from the other side lot line thereof. No primary building shall be so located as to reduce the rear yard of the Lot on which it is located to less than ten (10) feet. For the purposes of this section, eaves, steps and open or fully-screened porches and patios shall not be considered as a part of a building; provided, however, that this shall not be construed to permit any portion of a building on a Lot to encroach upon another Lot; and provided, further, that the foregoing shall not in any way interfere with the right of entry provided for in Section 5 of Article VIII hereof.

(f) No opening of a garage automobile entrance facing a street shall be less than twenty (20) feet from the sidewalk or street curb, whichever is closer.

(g) Regardless of the provisions stated herein-above regarding building locations, a minimum of nine hundred (900) square feet shall be maintained as open yard space on each lot.

(h) No shed, tent or temporary building shall be erected, maintained or used on any Lot or portion thereof; provided, however, that temporary buildings for use incidental to the initial construction of improvements may be constructed and maintained provided that said temporary buildings shall be promptly removed upon the completion of such construction work.

(i) No privy shall be erected, maintained, or used upon any Lot or portion thereof, nor upon the Maintenance Area, but privies are permitted during the course of the initial construction of improvements, provided that any such temporary privy shall be promptly removed upon completion of such construction.

(j) No building constructed elsewhere shall be moved to or constructed on the Property.

Section 3. Maintenance.

(a) All improvements upon each Lot shall, at all times, be maintained in good condition and repair, as determined by the Board.

(b) No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition, as determined by the Board. No Owner or occupant of any Lot shall permit any trash or refuse to be dispersed over rear yard fences.

Section 4. Signs. No sign of any kind shall be displayed to the public view on any part of the Property, except for one (1) sign of professional quality on each lot no larger than five (5) square feet advertising such Lot for sale or rent.

Section 5. Animal Restrictions. No insects, reptiles, poultry or animals of any kind shall be raised, bred or kept on the Property, except usual and ordinary dogs, cats, fish, birds and other

household pets (excluding, without limitation, equine, bovine, sheep, swine, goats and other such animals) which may be kept, provided that they are not kept, bred or maintained for commercial purposes or in unreasonable quantities, nor in violation of the rules and regulations adopted by the Association. As used in this Declaration, "unreasonable quantities" shall ordinarily mean more than two (2) pets per household; provided, however, that the Association (or the Architectural Committee or such other person or entity as the Association may from time to time designate) may determine that a reasonable number in any instance may be more or less. The Association, acting through the Board of Directors, shall have the right to prohibit maintenance of any animal which constitutes, in the opinion of the Board, a nuisance to any other Owner. Animals belonging to Owners, occupants or their licensees, tenants or invitees within the Properties must be either kept within an enclosure, an enclosed yard or on a leash being held by a person capable of controlling the animals. Furthermore, any Owner shall be absolutely liable to each and all remaining Owners, their families, guests, tenants, passers by, and invitees, for any unreasonable noise or damage to person or property caused by any animals brought or kept upon the Property by an Owner or members of his family, his tenants or his guests. It shall be the absolute duty and responsibility of each such Owner to clean up after such animals which have used any portion of the Property, including, but not limited to, any portion of another's Lot or of the Maintenance Area.

ARTICLE XII GENERAL PROVISIONS

Section 1. Enforcement.

(a) The Association (acting through the Board) and/or the Owner of any Lot shall have the right, but not the duty, to enforce by proceedings at law or in equity all covenants, conditions, restrictions, easements, reservations, provisions, liens and charges now or hereafter imposed by this Declaration, the Association's Articles of Incorporation, the Association's By-Laws and/or the Rules and Regulations, including, without limitation, the right to prosecute a proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of these covenants, conditions, restrictions, easements, reservations, provisions, liens or charges to enjoin or prevent them from doing so, to cause said violation to be remedied and/or to recover damages for said violation.

(b) Should any Owner fail to comply with any provision of this Declaration, the Association's Articles of Incorporation, the Association's By-Laws and/or the Rules and Regulations, and should any such failure continue for a period of thirty (30) days following written notice of such failure from the Board, the Board shall have the right, but not the duty, to cause to be corrected any such noncompliance, and the cost thereof shall be borne by such Owner; provided, however, that in the event such costs are not paid to the Association within thirty (30) days after the Board has furnished a statement therefor, the Board shall have the right, but not the duty, to levy a Reimbursement Assessment against such Owner to cover the costs of correction, if any, of such noncompliance, as the case may be. No one or more failures or refusals by the Association to accomplish such compliance which an Owner shall have failed to perform shall be deemed a waiver of the right in the Association to perform such work at a

later time as to the same or different work or compliance.

(c) The result of every action or omission whereby any covenant, condition, restriction, easement, reservation, provision, lien or charge herein contained is violated in whole or in part is hereby declared to be and to constitute a nuisance, and every remedy allowed by law or equity against an Owner, either public or private, shall be applicable against every such result and may be exercised by the Association (acting through the Board) and/or any Owner, subject to these restrictions.

(d) In any legal or equitable proceeding for the enforcement or to restrain the violation of these covenants, conditions, restrictions, easements, reservations, liens or charges or any provisions hereof, the prevailing party or parties shall be entitled to an award of costs and attorneys' fees in such amount as may be fixed by the court or arbitrator in such proceedings. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

(e) Failure by the Association or any Owner to enforce any covenant, condition, restriction, easement, reservation, provision, lien or charge herein contained shall in no event be deemed a waiver of any breach or violation or a waiver of the right to do so thereafter. All remedies within the authority of the Association for purposes of effecting compliance with this Declaration, the Association's Articles of Incorporation, the Association's By-Laws and/or the Rules and Regulations shall be cumulative, and the exercise of any one or more of such remedies shall not preclude the use of any other such remedy.

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

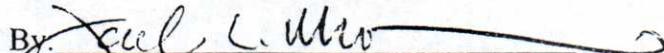
Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of ten (10) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for a successive period twenty-four (24) months. At any time, the record Owners of sixty-six percent (66%) of the Lots in the Property may modify this Declaration and any of its limitations, restrictions, easements, conditions or covenants by an agreement placed on record in the Office of the County Recorder of Orange County, California. However, no amendment to Section 9 of Article V or to this Section 3 of Article XII of this Declaration shall affect the rights of the holder of any mortgage or deed of trust recorded prior to the recordation of such amendment who does not join in the execution thereof.

Section 4. Mortgage Protection Clause. No breach of the covenants, conditions or restrictions herein contained, nor the enforcement of any lien provisions herein, shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any owner whose title is derived through foreclosure or trustee's sale, or otherwise.

Section 5. Original Declaration. This Declaration shall constitute an amendment to the Original Declaration, adopted pursuant to Section 3 of Article XI of such Original Declaration and its amendments of December 18, 1967, January 10, 1968 and June 15, 1982. In the case of any conflict between this Declaration and the Original Declaration, the provisions of this Declaration shall prevail.

IN WITNESS WHEREOF, the Declarant, acting through the Association after adoption of this Declaration by written acclamation, does execute this Declaration as of the day and year first above written.

DEANE GARDENHOME ASSOCIATION

By: 
Its President

By: 
Its Secretary

By: 
Its Treasurer