

**Fairmont Subdivisions Improvement Association**

**Declaration of  
Restrictions, Covenants, Easements  
and Charges Affecting Real Property**

**DECLARATION OF  
RESTRICTIONS, COVENANTS, EASEMENTS  
AND CHARGES AFFECTING REAL PROPERTY**

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DECLARATION OF  
RESTRICTIONS, COVENANTS, EASEMENTS  
AND CHARGES AFFECTING REAL PROPERTY  
KNOWN AS FAIRMONT UNIT NO. \_\_\_\_\_

THIS DECLARATION, made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_

by HENRY DOELGER BUILDER INCORPORATED, a California Corporation,

W I T N E S S E T H:

WHEREAS Henry Doelger Builder Incorporated, a corporation hereinafter referred to as Declarant, is the owner of that certain tract of land in the City of Pacifica, County of San Mateo, State of California, shown on the subdivision map entitled FAIRMONT UNIT NO. \_\_\_\_\_, PACIFICA, SAN MATEO COUNTY, CALIFORNIA, filed \_\_\_\_\_, 19\_\_ in Book \_\_\_\_\_ of Maps \_\_\_\_\_ in the office of the County Recorder of San Mateo County.

WHEREAS there has been incorporated under the laws of the State of California a non-profit corporation without capital stock known as Fairmont Subdivisions Improvement Association, hereinafter referred to as Association, membership in which is limited to owners of lots and contract purchasers of lots in those certain tracts generally known as Fairmont Subdivisions, of which the above described real property is one, and which said Association, subject to the provisions hereinafter contained, is to have the interpretation and enforcement of certain of the restrictions, covenants, charges and agreements set out in this Declaration,

NOW, THEREFORE, HENRY DOELGER BUILDER INCORPORATED, a corporation in pursuance of a general plan or scheme of improvement for the whole of the property shown on said Map hereinabove mentioned, hereby declares that the property shown on said map with the exception of Parcels \_\_\_\_\_ as shown thereon is held and shall be conveyed subject to the restrictions, covenants, easements and charges contained in this Declaration. Whenever hereinafter in this Declaration the terms "said property" "said subdivision", "any lot or parcel of land shown on said map", "any lot or plot in said tract", "any property shown on said map" or like terms are used, the same shall be deemed to refer to property as shown on said map exclusive of said Parcels \_\_\_\_\_, it being the intent hereof that said Parcels \_\_\_\_\_ are not subject to this Declaration nor affected by the same.

ARTICLE I

RESIDENCE CONDITIONS

No building shall be constructed or maintained on any lot or parcel of land shown on said map except a private dwelling house, designed and intended for occupation by no more than one family, flats, apartment houses and all other multiple dwelling houses and rooming and boarding houses being expressly prohibited. There may be constructed and maintained as appurtenant to said dwelling house appropriate out-buildings, including a private garage for the use of the occupants of such dwelling house, and a guest house or housing accommodations for servants employed on the



premises, provided, however, that no such out-buildings shall be more than one story in height, and such guest house or housing accommodations must be attached to the dwelling house or joined thereto by a roofed connection.

Said property shall be used for residence purposes only. It shall not be used for the conduct or maintenance thereon of any form of business, manufactory, or other commercial enterprise, or for any hospital, sanitarium or institution of like or kindred nature.

Notwithstanding the foregoing restrictions, if any portion of said property shall be zoned by appropriate municipal or county authorities to a zone other than a first residential zone at a time when Declarant is the owner of said portion, then Declarant may erect and maintain on said portion or any part thereof any building or structure permitted by the zoning regulations then controlling. In the event of such a change in zoning affecting any portion of the property, then owned by Declarant, the Declarant may, but is not required to, cancel the restrictions, covenants and charges imposed by this Declaration insofar as it applies to the said portion of the property subject to the change in zoning, such cancellation to be effected by recording in the office of the County Recorder of San Mateo County, California, a Declaration of Cancellation of Restrictions, duly executed by Declarant and setting forth therein the purpose of such instrument.

## ARTICLE II

### TEMPORARY BUILDINGS

No trailer, basement, tent, shack, garage, barn or other outbuildings shall at any time be used as a residence, temporary or permanent, nor shall any residence of temporary character be permitted on said property, and no structure shall be moved on or brought upon any part of said property unless it shall conform to and be in harmony with existing structures in the area of the proposed location thereof.

## ARTICLE III

### ARCHITECTURAL CONTROL

No building, wall or other structure shall be erected or maintained upon any building site, and no alteration in the exterior of any building or structure for which it is necessary to secure a permit from the appropriate municipal or other governing authority, nor any other permanent alteration in the exterior of any building or structure shall be made unless and until complete plans and specifications therefor, showing the nature, design, height, material, color scheme and location on the lot of the proposed structure or altered structure are submitted to and approved in writing by Association, and Association shall refuse to approve of any structure or proposed structure or proposed alteration thereof if the same does not conform to the requirements laid down in this Declaration or does not conform to and is not in harmony with the general design and scheme of improvements in the area; provided, however, that the foregoing provisions of this paragraph shall not be applicable as to the improvements erected on any building site by Declarant prior to Declarant's sale of such site. Without the written consent of Association having been obtained, no fence or wall shall be erected or maintained on any building site nearer to any street than the fence installed at the time of the original construction of the dwelling house to which the fence or wall is appurtenant, or, if the location of such originally installed fence is not ascertainable, then not nearer to the front street line than thirty-five (35) feet, nor without like written consent shall such fence, hedge or other enclosure be permitted having a height greater than six (6) feet above the surface of



the ground, as originally graded or terraced by Declarant, on either side of the fence, hedge or enclosure, provided, however, such height limitation shall not apply to any fence erected by Declarant at the time of the original construction of the dwelling house to which the fence is appurtenant, and any fence so erected by Declarant in excess of six (6) feet in height may thereafter be maintained at its original height, nor without like written consent shall any clothesline or clothespole or other similar structure, except a rotating clothes dryer located in the rear of the dwelling house, be permitted, nor without like written consent shall any radio or other aerial be erected or maintained except on the rear twenty (20) feet of a building or structure. Any proposed change in color on the exterior of any structure must be submitted to and approved in writing by Association before such change is made.

#### ARTICLE IV

##### SLOPE CONTROL AREAS

If at the time of the sale of any building site by Declarant there exists any area in that portion of said site between the building thereon and the rear line of said site having a slope or grade in excess of 20%, which said area is hereinafter called a "slope control area", then, without the written consent of Association, said slope control area shall not be altered nor shall any structure, planting or other material be placed or permitted to remain, or other activities undertaken, thereon which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of the flow of drainage channels or obstruct or retard the flow of water through drainage channels. The slope control areas within any lot and all improvements in them shall be maintained continuously by the owner of such lot, except for those improvements for which a public authority or utility company is responsible. Upon failure of the owner to comply with the requirements of this paragraph, the Association may at its option, after ten days' written notice to the owner, restore or alter such slope control areas to the condition in which they are required to be kept pursuant to the provisions of this paragraph, and may so maintain the same, and the reasonable costs and expenses of such restoration, alteration and maintenance shall be paid for by the owner. In any suit brought by the Association to collect such indebtedness, the Association shall be entitled to recover, in addition to such costs and expenses, reasonable attorneys' fees to be fixed by the court.

Declarant shall for a period of one year following Declarant's sale and deed of any particular building site, have the right but not the obligation to enter upon the said site and maintain the slope control areas, if any, thereon so that they shall conform to the requirements of this Article IV. An easement of reasonable access for said purpose is reserved to Declarant, and the purchaser by the acceptance of a deed from Declarant shall take title subject to such easement for said period of one year.

#### ARTICLE V

##### MINIMUM SIZE AND LOCATION REQUIREMENTS

No dwelling, except the first dwelling that may be erected on a building site by Declarant, shall be erected or maintained on any building site having a floor area, exclusive of open porches and garages, of less than nine hundred and fifty (950) square feet, or having a height in excess of two (2) stories.



ARTICLE VI  
SETBACK OF BUILDINGS

No buildings or projections thereof shall be located nearer than 14 1/2 feet from the front lot line, exclusive of bay windows or other projections; except that as to corner lots the said minimum setback restriction shall be applied to one street frontage only and, except as otherwise expressly authorized and approved by Association, all main buildings and structures must be located at least three (3) feet distant from the side line of the building site.

ARTICLE VII  
RESUBDIVISION OF LOTS

A "building site", as the term is used in this Declaration, shall mean a parcel of land having an area not smaller than the smallest original numbered lot as shown on said map, and having a street frontage of not less than that of the numbered lot in said subdivision having the smallest street frontage. No additional buildings shall be permitted by reason of any division or subdivision of any of the lots shown on said map unless the lot resulting from such division or subdivision is equal in area or larger than the smallest original numbered lot as shown on said map.

ARTICLE VIII  
EASEMENTS

Easements and rights of way, as indicated upon said map are created for the installation and maintenance of sewers, storm drains, pole lines, conduits for the transmission of electricity for lighting, telephone or other purposes, and any other public utility or quasi utility purpose; and no building shall be placed upon such easements or interference made with the free use of the same for the purposes intended; and connections with sewers and the use thereof shall be for sanitary purposes only, unless permission for additional use or uses is previously secured from the governing body of the district or municipality operating and maintaining such sewers. Purchasers of lots as shown on said map shall take title subject to easements, if any, existing on the ground.

ARTICLE IX  
SIGNS

No billboards or other advertising devices shall be erected or placed on any lot or plot in said tract; and no more than one "For Sale, Lease or Rent" sign shall be displayed upon any single lot or plot, and such sign shall not be larger than 18" x 24"; provided, however, that during the development and sale of lots and homes in said tract or adjoining tracts, Declarant may erect and display one or more larger signs as it may determine.

ARTICLE X  
COMPLETION OF CONSTRUCTION

Any residence or other buildings in said subdivision, the construction of which has been started, shall be completed without delay, except when such delay is caused by acts of God, strikes, actual



inability of the owner to procure deliveries of necessary materials, or by interference by other persons or forces beyond the control of the owner to prevent. Financial inability of the owner or his contractor to secure labor or materials or discharge liens or attachments shall not be deemed a cause beyond his control.

If, at any time after the sale by Declarant of a building site, there should occur a cessation of work upon any building then under construction thereon, and such cessation continues for a period of 120 days, then where the interruption is not excused by the provisions hereof, the existence of such incompleted building shall be deemed a nuisance, and the Association shall have the right to enter upon the premises and remove the incompleted building, or carry such construction forward to completion, and the costs and expenses incurred in connection with such removal or completion shall constitute a lien upon said property under the Mechanic's Lien Law of the State of California, such lien to attach as of the time of the commencement of the work so undertaken to complete such construction or to effect such removal and the said lien may be enforced in the manner provided for the enforcement of mechanics' liens.

## ARTICLE XI

### LANDSCAPING

No portion of any building site between the street line and the main residential building or structure thereon shall be used for the planting or growing of garden vegetables. The major portion of all front yard areas must be kept in lawns unless otherwise permitted in writing by Association, and all front yard landscaping (i.e., lawns, shrubs, trees, flowers and other plants) including any planting strip between the lot line and the inside line of the sidewalk shall be kept and maintained by the owner in a good and husbandlike manner. The caring for all trees in said planting strip area between the lot line and the inside line of the sidewalk shall be by or under the direction of such Association without the right of removal, replacement or substitution thereof except by written permission of the Association. Upon failure of owner to comply with this paragraph after fifteen days' written notice, the Association may, at its option, restore such portion of lot and such area to the condition in which it is required to be kept pursuant to the provisions of this paragraph, and may so maintain the same, and the reasonable costs and expenses of such restoration and maintenance shall be paid for by such lot owner. In any suit brought by the Association to collect such indebtedness, the Association shall be entitled to recover, in addition to such costs and expenses, reasonable attorneys' fees to be fixed by the court.

## ARTICLE XII

### PETS

No building site or building thereon in said subdivision shall be used for the keeping or breeding of fowls, animals, or creatures of any kind for commercial purposes, but such fowls, birds and animals may be kept as pets for the pleasure of the occupants of the premises where kept, and then only shall it be permissible to keep ordinary or usual species in number and under conditions not constituting a nuisance or otherwise objectionable to other residents in the subdivision; and all yards, pens and outbuildings used in connection with the keeping of such fowls, birds and animals shall be located only in the rear half of the respective lots, and shall be adequately screened from view from any street and be at all times kept and maintained in a clean and sanitary condition.



## ARTICLE XIII

### OFFENSIVE ACTIVITY

No noxious or offensive activity shall be carried on upon said property, nor shall anything be done thereon which may be or may become a nuisance to the neighborhood.

## ARTICLE XIV

### PROCEDURE FOR APPROVAL OF PLANS

In all cases in which under the provisions of this Declaration, the written approval by Association of plans and specifications is required before any particular structure may be erected or altered, such approval may be given by Association or by a special committee to be appointed by Association for such purposes. If the Association or such duly appointed special committee fails to approve or disapprove of any plans and specifications within thirty days after such plans and specifications are properly submitted to the Association, or if there is no Association in existence to which plans and specifications may be submitted, or if no suit is brought to enjoin the construction or alteration of such structure before the work thereon is completed, approval of such plans and specifications shall be deemed to have been made, provided such construction or proposed construction otherwise complies with the provisions of this Declaration.

## ARTICLE XV

### PROVISION FOR UPKEEP

Each building site within said subdivision shall, following the completion of the construction of the original dwelling thereon and the sale thereof by Declarant be subject to an annual charge or assessment in an amount of not less than \$7.00 nor more than \$18.00 without regard to the square foot area thereof, to be paid annually in advance to Association on the 1<sup>st</sup> day of January of each year, provided, however, that the first annual assessment on any building site shall become due and payable 30 days following the sale by Declarant of the dwelling house thereon, and if such due date falls in any month other than January, a credit in an amount to be determined on a monthly pro-rata basis will be given the owner of such building site at the time he pays his next accruing annual assessment. When due such charge or assessment shall be a lien upon the building site, and shall continue to be a lien thereon for a period of three years or until fully paid, whichever shall first occur. If such charge or assessment is not paid within 30 days after it becomes due it shall be delinquent and shall bear interest from date of delinquency at the rate of 10 per cent annum. If not paid within 30 days after the delinquency date, Association may bring court action to collect the same and there shall be added to the amount thereof the cost of preparing and filing the complaint in such action and, in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action.

All charges and assessments shall be applied by Association towards the payment of the cost of the following upkeep and maintenance expenses, to wit:

- (a) Expenses, if any, incident to the enforcement of the easements, restrictions, covenants, charges and agreements contained in this Declaration, and to the collection of the charge or assessment provided for in this paragraph.



- (b) Street lighting, improving and maintaining gateways or ornamental columns or any other ornamental features, repairs to streets, curbs, sidewalks, sewers and any other utilities not maintained by or at the expense of the Public Authorities, including trees, grass plots and planted areas within the lines of such streets or any recreational areas, the construction and maintenance of suitable school bus and public bus stop shelters, all within the said subdivision.
- (c) Caring for vacant and unimproved lots and plots in said subdivision, removing grass and weeds therefrom and any other thing necessary and desirable in the judgment of Association to improve, beautify and make more convenient or enjoyable for living conditions and surroundings of the inhabitants and other owners in said subdivision.
- (d) Sweeping and cleaning streets, sidewalks and any portion of said subdivision maintained for the general use of owners of property therein until such time as the sweeping and cleaning of streets are provided for by Municipal Authorities.
- (e) A reasonable proportion of the expenses connected with the maintenance of an office for the transaction of the business of Association in carrying out the foregoing purposes.

Association agrees that the money so collected shall be applied to the purposes above mentioned in such manner so that there will not be accumulated and carried over from any one calendar year to the next a sum which is in excess of that arrived at by multiplying the number of building sites upon which assessments have been collected during the year by the sum of \$5.00.

Association shall not be obligated to carry out any of said purposes except to the extent possible from the money so collected. If Association shall assign the rights of enforcement herein to any corporation or association as hereinafter provided, then such corporation or association shall have the right to receive such charges and assessments and to enforce the collection thereof and to expend the same as hereinbefore set forth, and upon such assignment and the delivery of the money then on hand being made by Association, the said Association shall be discharged of all responsibility in the premises.

## ARTICLE XVI

### SEVERABILITY

The various provisions of this Declaration are declared to be severable, and the invalidation of any one of the restrictive covenants or other provisions hereof by judgment or court order shall in no wise affect any other covenant or provision herein contained.

## ARTICLE XVII

### ENFORCEMENT AND REMEDY

The provisions contained in this Declaration shall bind and inure to the benefit of and be enforceable by Declarant, by Association and by the owner or owners of any property shown on said map, their, and each of their legal representatives, heirs, successors and assigns, and failure by any one of them to enforce any of such restrictions, covenants, and agreements herein contained shall in no event be deemed a waiver of the right to do so thereafter; and damages for



any breach of the terms, restrictions, covenants and agreements of this Declaration are hereby declared not to be adequate compensation, but such breach or the continuation thereof may be enjoined or abated by appropriate proceedings by Declarant or by Association or by any owner or owners of property shown on said map and in any proceedings to enforce such restrictions, covenants or agreements, either by law or in equity, if recovery be had, the plaintiff shall be entitled to recover all costs and expenses, including a reasonable attorneys' fee to be fixed by the court.

## ARTICLE XVIII

### DURATION OF RESTRICTIONS

All the restrictions, covenants, charges and agreements set forth in this Declaration shall affect all of said property, and are made for the direct benefit thereof, and shall run with the land and continue until thirty-five (35) years from the date hereof, at which time the same shall automatically be extended for successive periods of ten (10) years unless, by duly executed and recorded agreements entered into after the expiration of the initial thirty-five (35) year period, the owners of 50 per cent of the area of the property shown on said map then subject to these restrictions, exclusive of street areas, elect to terminate or amend the same.

## ARTICLE XIX

### MODIFICATION OF RESTRICTIONS

Any of the restrictions, covenants, charges and agreements contained in this Declaration may be annulled, waived, changed or modified at any time by the record owner or owners of lots or parcels of land within said subdivision having an aggregate area of not less than two-thirds of the total area of said subdivision, exclusive of street areas. The owner or owners desiring to accomplish such annulment, waiver, change or modification shall execute and record in the office of the County Recorder of San Mateo County an appropriate instrument setting forth the nature and extent of such annulment, waiver, change or modification, and the annulment, waiver, change or modification, as the case may be, shall be effective upon such recordation.

Notwithstanding the foregoing provisions of this paragraph, if at the time of recordation of such instrument annulling, waiving, changing or modifying any of these restrictions, there exists upon any of the property in said subdivision a recorded deed of trust or mortgage in which the Federal Housing Administration, or its successor in function, has any interest as insurer, guarantor, or otherwise, or if at such time the Federal Housing Administration or its successor in function is the owner of any property in said subdivision, such purported annulment, waiver, change or modification shall not be effective for any purpose unless and until it is consented to in writing by the Federal Housing Commissioner, or his successor in office. And if at the time of the recordation of such instrument there exists upon any of the property in said subdivision a recorded mortgage or deed of trust in which the Veterans Administration or its successor in function has any interest as insurer, guarantor, or otherwise, such purported annulment, waiver, change or modification shall not be effective for any purpose unless and until it is consented to in writing by either the Administrator of Veterans Affairs (or his successor in office), or by the mortgagee or beneficiary, as the case may be, of every such mortgage or deed of trust in which the Veterans Administration, or its successor in function, has any such interest; and if at the time of the recordation of such instrument the Veterans Administration or its successor in function is the owner of any property in said subdivision, then such purported annulment, waiver, change



or modification shall not be effective for any purpose unless and until it is consented to in writing by the Administrator of Veterans Affairs, or his successor in office.

"Owner" as used in this paragraph shall include, in addition to the owner of the fee title, the owner of a beneficial interest under a deed of trust, a mortgagee, and a contract purchaser. It shall not include the trustee under a deed of trust, the holder of a lien other than a mortgage lien, the owner of an easement or a lessee.

## ARTICLE XX

### CONSENT OF PURCHASERS

All purchasers of the property shown on said map by the acceptance of deeds thereof, whether from Declarant or from subsequent owners of such property or by the signing of contracts or agreements to purchase the same, shall thereby and by said act consent and agree to all of the restrictions, covenants, and provisions hereof, and shall thereby covenant and agree to be bound by and keep and perform the same and shall be personally obligated to pay the charges or assessments hereinbefore provided for attaching as a lien during the period of their ownership.

## ARTICLE XXI

### ASSIGNMENT OF POWERS

Any or all of the rights or powers of Association herein contained may be assigned or re-assigned to any non-profit corporation or association which is now organized or which may hereafter be organized with membership open to a fee owner and to a contract purchaser of any property in said subdivision, and which corporation or association will agree to assume the duties of Association hereunder pertaining to the particular rights and powers assigned. Upon any such corporation or association evidencing its consent in writing to accept such assignment and assume such duties, it shall to the extent of such assignment have the same rights and powers and be subject to the same obligations and duties as are given to and imposed upon Association herein.

## ARTICLE XXII

### MEMBERSHIP IN ASSOCIATION NOT REQUIRED

Nothing contained in this Declaration, or in any of the provisions hereof, or in any governing rules, by-laws or articles of incorporation of Association or of any corporation or association to which any powers may hereafter be assigned under Paragraph XXI hereof, is intended to or shall be construed to make membership in Association, or in any corporation or association to which any powers may be assigned, mandatory or a condition to holding title to or possession of any property in said subdivision.

## ARTICLE XXIII

### MORTGAGE PROTECTION PROVISION

Each and every lien or charge imposed or that may be imposed upon said property or any part thereof pursuant to any provision hereof, including, but not limited to, any lien arising out of an

assessment made pursuant to the provisions of Article XV hereof, is, and shall at all times be, subject and subordinate to the lien or charge of any mortgage or deed of trust made in good faith and for value, affecting said property or any part thereof, or any improvements now or hereafter placed thereon, and a breach of any of the covenants or conditions hereof shall not defeat or render invalid the lien or charge of any such mortgage or deed of trust; provided, however, that title to any of said property acquired through sale under foreclosure of any such mortgage or deed of trust, whether foreclosure is effected by power of sale, judicial proceedings, or otherwise, shall be subject to all such liens and charges which shall accrue after the date of such foreclosure sale; and provided, further, that except to the extent hereinabove in this paragraph set forth, nothing contained in this paragraph shall impair the priority of this Declaration over the lien or charge of any such mortgage or deed of trust.

IN WITNESS WHEREOF the said corporation has executed this Declaration the day and year first above written.

HENRY DOELGER BUILDER INCORPORATED  
A California Corporation

By EDWARD KING (signed)  
Vice-President

By A. L. PORTER (signed)  
Secretary

This is a reproduction of the original CC&Rs to be used for printing readable copies. The original copy of the CC&Rs is on file in the Fairmont Subdivisions Improvement Association office located at 649 Parkview Circle, Pacifica, CA.