

After recordation, return to:

Sunridge Development Corporation  
1675 No. 200 West Bldg. #4  
Provo, UT 84604

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RECORDED FOR SUNRIDGE DEVELOPMENT CORP

**AMENDED AND RESTATED  
DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS,  
EASEMENTS, RESERVATIONS AND RESTRICTIONS**

**SUNRIDGE HILLS SUBDIVISION  
Plat "B"**

**Provo, Utah**

**THIS AMENDED AND RESTATED DECLARATION** (the "Declaration") is made as of this 27 day of August, 1994 by **SUNRIDGE DEVELOPMENT CORPORATION**, a Utah corporation (the "Declarant"), in its capacity as an owner and developer of the real property herein described to which this Declaration is applicable.

A. On December 17, 1993, Declarant recorded that certain Declaration of Protective Covenants, Conditions, Easements, Reservations and Restrictions (the "Recorded Declaration") as Entry No. 92423, Book 3325, Page 182 against the following described property:

All of Lots 1 through 44, inclusive, SUNRIDGE HILLS SUBDIVISION, Plat "B", Provo, Utah, according to the official plat thereof, as recorded in the office of the County Recorder of Utah County.

B. In actuality, the referenced Sunridge Hills Subdivision, Plat "B" comprises 46 lots, rather than 44 lots; therefore, inadvertently Lots 45 and 46 are not covered by the Recorded Declaration.

C. The following lots of the subject subdivision (the "Other Property") have been sold and conveyed to the following named grantees of record (the "other Owners"):

<u>Lots</u>	<u>Grantee</u>
1 through 5, 7 and 8	RDM Development, L.C.
6	Tom and Lois Williams
17 through 20 and 35 through 38	David Paxman

D. Declarant is the record owner of Lots 9 through 16, Lots 21 through 34, and Lots 39 through 46 (together "Declarant's Property").

E. Declarant desires by this Declaration to amend the Recorded Declaration in its entirety (1) to include some additional provisions required by Provo City as a result of a recent approved revised preliminary development plan of the subject subdivision and (2) to include the coverage of the Declaration to all of Declarant's Property and all of the Other Property. The Other Owners concur with such amendment and attest thereto by joining with Declarant in executing this Declaration and imposing upon the subject subdivision mutual, beneficial restrictions under a general plan or scheme of improvement for the benefit of all of such property, the owners of such property, and their successors and assigns.

F. Declarant and any two of the three Other Owners comprise sufficient record ownership of lots within the subject subdivision to amend the Recorded Declaration pursuant to Section 4.02 thereof, i.e., at least two-thirds.

NOW, THEREFORE, Declarant hereby declares that (1) the Recorded Declaration is rescinded and this Declaration is substituted in the place and stead thereof and (2) all of the property described below (sometimes herein referred to as "lands", "lots", "tract", "subdivision" or "property") shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied, and improved, subject to the following covenants, conditions, easements, reservations and restrictions, all of which are declared and agreed to be in furtherance of the plan for the subdivision, improvement, and sale of the lands and are established and agreed upon for the purpose of enhancing and protecting the value, desirability, and attractiveness of the lands and every part thereof. All of the provisions of the Declaration will be deemed to be covenants or equitable servitudes, as the case may be, running with the land and shall be binding upon all parties having or acquiring any right, title or interest in the described lands or any part thereof.

## ARTICLE I

### PROPERTY

The property subject to the provisions of this Declaration is located in Provo City, Utah County, Utah and is described as follows:

All of Lots 1 through 46, inclusive, SUNRIDGE HILLS SUBDIVISION, Plat "B", Provo, Utah, according to the official plat thereof as recorded in the office of the County Recorder of Utah County.

## ARTICLE II

### RESIDENTIAL AREA COVENANTS

2.01 Land Use. The property is zoned R-2 and R-3 and is restricted to either (a) twin-home single family residential use or (b) single family residential use, both pursuant to applicable ordinances of Provo City. No lot shall be used except for residential purposes.

2.02 Building Type. No building shall be erected, altered, placed or permitted to remain on any lot other than (a) one twin-home dwelling for single family residential use, with private garage for not more than two automobiles; (b) one single family detached residence dwelling, with private garage for not more than two automobiles; or (c) one single family detached residence dwelling, with private garage for not more than three automobiles, constructed on two lots numbered sequentially odd and even, in which event the residence dwelling shall straddle the interior mutual lot line between the two lots.

2.03 Dwelling Quality, Size and Height. All dwellings shall be of a quality of workmanship and materials substantially the same or better than that which can be procured for and used in subdivisions and lots of similar size and general location in Utah County, Utah, on the date this Declaration is recorded. The ground floor area of the main structure, exclusive of garages and open porches, shall not be less than 1200 square feet for a one-story twin-home and 1800 square feet for a single family residence dwelling, nor less than 1800 square feet for a twin-home dwelling of more than one story and 2600 square feet for a single family residence dwelling of more than one story. No dwelling structure shall exceed 16 feet in height as measured from the center of the applicable lot at the top level of the curb and gutter fronting such lot UNLESS approved by the Architectural Control Committee which shall have as its primary concern the preservation of view for other dwellings in the immediate proximity. In any event, approved heights in excess of 16 ft. shall not exceed Provo City ordinances for building height limitations.

**2.04 Construction and Set-Back Lines.**

(a) All construction of improvements upon the property shall be done pursuant to and in accordance with the ordinances and permit requirements of Provo City, including compliance with approved front, side and rear set-back lines; provided that:

(i) No twin-home dwelling or single family detached dwelling constructed on two lots shall be located nearer than 10 feet to a side yard or exterior lot line; and

(ii) No single family detached dwelling constructed on a single lot shall be located nearer than 5 feet to a side yard or exterior lot line.

(b) For the purpose of this covenant, eaves, steps, and open porches 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 in any way, including airspace.

(c) Water conservation devices such as low-flow toilets and shower heads shall be used in all construction.

**2.05 Trees and Landscaping.**

(a) The removal of any living tree on any lot in excess of three inches diameter is prohibited without prior written consent of the Architectural Control Committee.

(b) Each lot shall have at least two trees of two inches caliper minimum as part of the initial front yard landscaping.

(c) The front yard of each residence dwelling shall be landscaped and contain an automatic sprinkler system as part of the original landscaping and construction.

**2.06 Easements.** Easements for installation and maintenance of utilities and drainage facilities are reserved as noted on the recorded subdivision map of the property. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements, if any, for which a public authority or utility company is responsible.

**2.07 Signs.** No sign of any kind shall be displayed to the public view on any lot except one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder or realtor to advertise the property during the construction and sales period. This provision shall not impair Declarant's right to utilize larger signage for permanent entrance statements or for advertisement during construction and development of the subdivision.

**2.08 Livestock, Poultry and Pets.** No animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats, and other domesticated household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose, and provided further that all pets kept outside must be restrained in a humane manner. Kennels, runs and leash areas must be kept clean and sanitary. No pets may be kept in unreasonable numbers.

**2.09 Nuisances.** No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

2.10 Temporary Structures. No structure of a temporary nature nor any trailer, basement, tent, shack, garage, barn, or other out buildings shall be used on any lot at any time as a residence, either temporarily or permanently.

2.11 Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish or debris. Trash, garbage or other waste shall not be kept except in sanitary containers. All containers used for the storage or disposal of such materials shall be kept in a clean and sanitary condition. During construction, excess building material and debris shall not be permitted to accumulate.

2.12 Parking: Trucks, Boats, Campers, Etc. No automobiles, trucks, campers, trailers, boats, equipment, recreational vehicles, motor homes, or other similar vehicles shall be parked or stored on a public street or right-of-way for more than 24 consecutive hours. None of the above may be kept or stored on any lot unless stored in a garage or unless parking stalls or other cover approved by the Architectural Control Committee is provided. No such parking or storage facilities may be located nearer than twenty (20) feet to the front lot line and must conform to all building ordinances of Provo City and the other provisions of this Declaration.

2.13 Maintenance of Lots. All lots, whether improved or unimproved, must be kept free of rubbish, weeds, trash and debris of any kind and must be maintained in such manner as to not detract from the subdivision as a whole. Sidewalk, curbs and gutters must be kept clean, unobstructed and in good repair. Front yards of completed dwellings shall be landscaped at or prior to occupancy by the first owners and shall be well maintained by the owners at all times.

2.14 Sewer Laterals Maintenance. Each pair of lots in the subdivision numbered sequentially odd and even may be served by a single lateral from the sewer main to the edge of the street where a "Y" lateral branches off to serve each of the two lots. In the event maintenance or unclogging is required as to such laterals, costs will be the shared responsibility of both lot owners from the "Y" to the street main and the individual responsibility of each lot owner from the "Y" to the residence dwelling of such owner on his lot.

2.15 Architectural Control. No buildings or fences shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the proposed structure on the lot have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of exterior design with existing structures, and as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, placed, or altered on any lot nearer to any street than the minimum building set-back line unless similarly approved and permitted by the ordinances of Provo City. No residence dwelling shall contain less square footage than the minimums set forth in this Declaration unless, by reason of lot size, set-back lines, etc., the Architectural Control Committee shall approve a lesser amount.

### ARTICLE III

#### ARCHITECTURAL CONTROL COMMITTEE

3.01 Membership. The Architectural Control Committee is composed of a designated officer of Declarant and two other individuals of Declarant's choosing who may or may not be lot owners. A majority of the Committee may designate a representative to act for it. In case of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this Declaration. From and after December 31, 1995, the then record owners, including Declarant, of a majority of the lots within the subdivision shall have the power, through a written instrument signed by said majority owners, to change the membership of the Committee or any of its powers and duties.

3.02 Procedure. All plans and specifications submitted to the Committee must be submitted in duplicate and accompanied by a written request for approval. The Committee's approval or disapproval shall

be in writing and returned to the one making submission, together with a notation of approval or disapproval and the date thereof affixed to one copy of such plans and specifications. In the event the Committee, or its designated representative, fails to approve or disapprove such plans and specifications within thirty (30) days after the same have been submitted to it, or in any event if no suit to enjoin the construction has been commenced before completion thereof, approval will not be required and the related covenants herein shall be deemed to have been fully complied with.

## ARTICLE IV

### PARTY WALLS

4.01 General Rules of Law to Apply. Each wall to be built as a part of the original construction of twin residences and placed substantially on the dividing line between lots, as shown on the subdivision plat, 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 damage due to negligence or willful acts or omissions shall apply thereto.

4.02 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.

4.03 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 owner of the adjoining lot thereafter makes use of the wall, such other owner shall contribute to the cost of restoration thereof in proportion to such use. The foregoing provision shall not prejudice, however, the right of any owner to call for a larger contribution from another owner under any rule of law regarding liability for negligent or willful acts or omissions.

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

4.05 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.

4.06 Easements for Encroachments. If any structure, including roof overhangs, originally constructed on any lot or hereafter constructed on any lot in replacement of the structure previously located thereon (so long as such replacement structure is in substantially the same configuration and location as such prior structure) now or hereafter encroaches upon an adjoining lot along a common wall line, a valid easement for such encroachment and the maintenance thereof shall exist.

## ARTICLE V

### GENERAL PROVISIONS

5.01 Term. The provisions of this Declaration shall run with the land and shall be binding on all parties and all persons claiming under them for a period of forty (40) years from the date of recordation of this Declaration, after which time the covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument in writing signed by a majority of the then owners of the lots within the subdivision has been recorded, agreeing to change the covenants in whole or in part.

5.02 Amendment. Except as otherwise provided in Section 5.01, above, this Declaration can be amended at any time by a recorded writing executed by at least two-thirds of the then record owners of the lots within the subdivision.

5.03 Lot Ownership. All owners of a single lot shall be considered as one owner for purposes of determining percentages of total lot ownership within the subdivision as to matters requiring lot owners' votes or consents.

5.04 Enforcement. Enforcement shall be by proceedings at law or in equity, brought by Declarant or any aggrieved lot owner, either to restrain violation or to recover damages against any person or persons violating or attempting to violate any of the provisions contained within this Declaration.

5.05 Severability. Invalidation of any of these covenants by judgment or court order shall in no wise affect any of the other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

SUNRIDGE DEVELOPMENT CORPORATION

By Stephen G. Stewart  
Stephen G. Stewart, President

CONSENT AND CONCURRENCE OF OTHER OWNERS

The undersigned Other Owners, without in any way subjecting themselves to any joint venture, partnership or other concerted development activity of any kind with Declarant, hereby concur with the Declarant and agree to the amendment and restatement of the Recorded Declaration as set forth above in the above Declaration. They do further attest to such concurrence and agreement by their signatures and state that together with Declarant, they comprise in excess of two-thirds of the ownership of the lots in the subject subdivision.

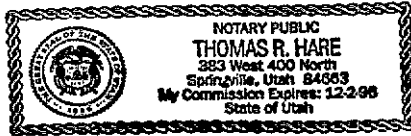
RDM DEVELOPMENT, L.C.,  
a Utah limited liability company

By Robert O. Hansen  
Robert O. Hansen, a Member/Manager

David Paxman  
David Paxman

STATE OF UTAH )  
 : ss.  
COUNTY OF UTAH )

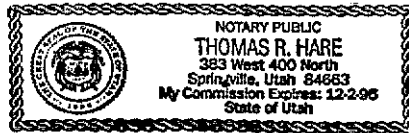
On the 30th day of August, 1994, personally appeared before me Stephen G. Stewart, who being by me duly sworn did say that he is the President of **SUNRIDGE DEVELOPMENT CORPORATION**; that he signed the within and foregoing instrument on behalf of said corporation pursuant to authority; and that said corporation executed the same.



Thomas R Hare  
NOTARY PUBLIC

STATE OF UTAH )  
 : ss.  
COUNTY OF UTAH )

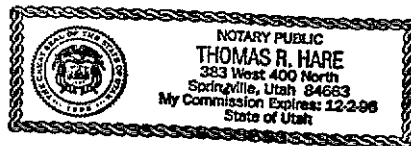
On the 31st day of August, 1994, personally appeared before me Robert O. Hansen, who being by me duly sworn did say that he is the Member/Manager of **RDM DEVELOPMENT, L.C.**; that he signed the within and foregoing instrument on behalf of said company pursuant to authority; and that said company executed the same.



Thomas R Hare  
NOTARY PUBLIC

STATE OF UTAH )  
 : ss.  
COUNTY OF UTAH )

On the 31st day of August, 1994, personally appeared before me David Paxman, who being by me duly sworn did say that he signed the within and foregoing instrument.



Thomas R Hare  
NOTARY PUBLIC

STATE OF UTAH )  
 : ss.  
COUNTY OF UTAH )

On the \_\_\_\_\_ day of August, 1994, personally appeared before me Tom Williams and Lois Williams who being by me duly sworn did say that they signed the within and foregoing instrument.

\_\_\_\_\_  
NOTARY PUBLIC