

When recorded return to:  
Holmes Homes, Inc.  
126 W. Sego Lily Drive, #250  
Sandy, Utah 84070

12644122  
10/25/2017 12:52:00 PM \$17.00  
Book - 10612 Pg - 5107-5110  
ADAM GARDINER  
Recorder, Salt Lake County, UT  
MERIDIAN TITLE  
BY: eCASH, DEPUTY - EF 4 P.

MTC File No. 246102v5

## DECLARATION OF SIDEYARD EASEMENTS

This Declaration of Sideyard Easements (this "Declaration") is made this 24<sup>th</sup> day of October, 2017 by Holmes Homes, Inc., a Utah corporation (hereinafter "Declarant").

1. This Declaration of Sideyard Easements is made in connection with the following lots situated in Salt Lake County, Utah. The Declarant is the Owner and/or has an Ownership interest in the following lots situated in Salt Lake County Utah (herein a "Lot" or "Lots", and collectively the "Project"):

Lots 199 and 200, Kennecott Daybreak Village 4 West Plat 1 Amended Subdivision, according to the official plat thereof as recorded in the office of the Salt Lake County Recorder.  
Tax Id. Nos. 26-13-426-024 and 26-13-426-025

2. Declarant has constructed or is in the process of constructing single family dwellings on each of the Lots and has determined that it is beneficial for the Project and for the use and maintenance of each of the individual Lots in the Project that each home have one Sideyard (a "Sideyard") to be used, enjoyed and maintained by the owner of the adjoining Benefitted Lot.
3. This Declaration is made with respect to each Benefited Lot to create a separate Sideyard/Use Easement in favor of and benefitting the Owner(s) of such Benefitted Lot, consisting of a five (5) foot wide strip of land over the Westerly five feet of the Burdened or Servient Lot which Servient Lot is situated generally Easterly of the Benefited Lot for the uses described herein (herein sometimes referred to as the Sideyard Easement and sometimes as the Use Easement).
4. This Declaration is made for the purpose of creating a Sideyard Easement in favor of the Benefitted Owner of the Lot adjacent to the Sideyard, allowing such Benefitted Owner to use the Sideyard for certain limited purposes as set forth in paragraph 6 below.
5. The "Dominant Lot" is the lot owned by the Benefitted Owner with respect to the use of the Sideyard on the Lot owned by the Adjacent Owner to the South.
6. The Sideyard as defined in Exhibit "A" attached hereto shall constitute a "Sideyard Easement" as more specifically set forth below. Each Sideyard Easement shall burden

that portion of the Burdened Lot and shall benefit the Benefitted Lot as defined in Exhibit "A" attached hereto. The Benefitted Owner shall have the right to use the Sideyard Easement for all normal uses incident to home ownership, including, but not limited to, for the purposes of general landscaping, recreation, garden use, drainage and other purposes, subject to the CC&Rs of the Project and the following provisions:

- (a) The Servient/Burdened Owner shall have the right at all reasonable times to enter upon the Sideyard Easement, including the right to cross over the entire Sideyard and that portion of the Servient Lot reasonably necessary for such entry, in order to perform work related to the use and maintenance of the improvements on the Servient Lot; and
- (b) The Servient/Burdened Owner shall have the right of drainage over, across and upon the Sideyard for water draining naturally from any structure upon the Servient Lot, including the right to maintain eaves and appurtenances thereto and the portions of any structure upon the Servient Lot as originally constructed pursuant to the CC&Rs of the Project; and
- (c) The Dominant/Benefited Owner shall not attach any object to a wall or dwelling belonging to owner of the Servient Lot, disturb the grading of the Sideyard area, or otherwise act with respect to the Sideyard in any manner which would damage the Servient Lot or any improvements thereon; and
- (d) In exercising the right of entry upon the Sideyard Easement as provided above, the Servient Owner shall utilize reasonable care not to damage any landscaping or other items existing in the Sideyard; provided, however, the Servient Owner shall not be responsible for damage to such landscaping or other items to the extent such damage could not be reasonably avoided in connection with such entry upon the Sideyard for the purposes authorized in this Declaration; and
- (e) Except as provided in paragraph 6(d) above, any damage caused by the Benefitted Owner to the Servient Lot or the improvements located thereon shall be promptly repaired and paid for by the Benefitted Owner; and
- (f) The Dominant Owner shall have the right to enclose the Sideyard with an appropriate fence, to landscape and use the entire Sideyard; provided, however, that such Sideyard Owner shall provide reasonable access to the respective Adjacent Owner for the purposes set forth herein.

7. For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Declarant declares that the Sideyard Easements created hereunder are and shall be perpetual, shall run with the land for the benefit of and shall be appurtenant to each Dominant Lot. Further, each Owner joins in and grants and accepts the Sideyard Easements referred to herein effective as of the date of the date of their respective deed(s).
8. The rights granted herein are specific to each Lot identified in Exhibit "A" hereto and the corresponding described Easement Area appurtenant to each Benefitted Lot. A Benefitted Lot Owner shall only have rights in the Sideyard Easement located Southerly of his/her Lot. The Sideyard Easement shall constitute an Easement Burden on the portion of each Servient Lot described in Exhibit "A" attached hereto in accordance with the terms and conditions of this Declaration.

9. By accepting title to the respective Lots referred to above, the owner(s) of said Lot(s) understand(s), acknowledge(s) and agree(s) as follows:

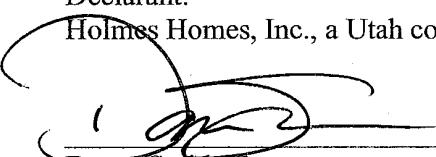
- (a) Each owner of a Servient Lot acknowledges that the portion of the Sideyard described in Exhibit "A" is subject to the Sideyard Easement as described herein; and
- (b) Each owner of a Dominant Lot acknowledges that he/she has the benefits of the Sideyard Easement, subject to the terms and conditions of this Declaration.
- (c) The Sideyard Easements created under the terms of this Agreement, shall run with the land and shall be binding on and inure to the benefit and burden of the respective owners of each respective Servient Lot and Dominant Lot, their successors and assigns.

10. This Agreement may be executed in Counterparts which shall constitute one instrument.

DATED as of the date of the respective acknowledgements.

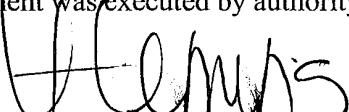
Declarant:

Holmes Homes, Inc., a Utah corporation

  
Daron Smith, Secretary

STATE OF UTAH )  
:ss.  
COUNTY OF SALE LAKE )

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of Oct, 2017 by Daron Smith, the Secretary of Holmes Homes, Inc., who duly acknowledged to me that said instrument was executed by authority.

  
Notary Public

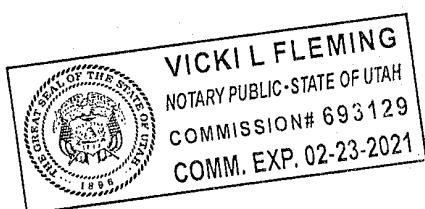


EXHIBIT "A"

USE EASEMENTS for Lots 199 and 200 Kennecott Daybreak Village 4 West Plat 1 Amended Subdivision, according to the official plat thereof as recorded in the office of the Salt Lake County Recorder.

USE EASEMENT BURDENING LOT 200 and Benefiting the Property to the West:  
A five (5) foot wide strip of land for the purpose of a Use Easement over the  
Westerly five (5) feet of Lot 161.