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BOISE TITLE & ESCROW  
ADA COUNTY, ID. FOR  
J. DAVID NAVARRO  
RECORDER BY *J. Navarro*

BELLFLOWER SUBDIVISION

JAN 5 PM 3 49

1498001214

RESTATED

**DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS**

The undersigned being owners of sixty-seven percent (67%) of the land in Quail Ridge Subdivision No. 1, in accordance with the provisions of Article III Section 3 of Bellflower Subdivision Declaration of Covenants, Conditions, and Restrictions recorded November 18, 1992 as Instrument No. 9279778 in the records of Ada County, Idaho, hereby amend, restate and terminate said Declaration of Covenants, Conditions, and Restrictions as follows:

THIS DECLARATION, made on the date hereinafter set forth by SUNCREST DEVELOPMENT, an Idaho Partnership (hereinafter referred to as "Declarant")

**WITNESSETH:**

WHEREAS, declarant is the owner of certain property in Boise City, County of Ada, State of Idaho, which is more particularly described as:

A portion of the NE 1/4 of section 30, T4N, R2E, Boise Meridian,  
Boise City, Ada County, Idaho, according to the official plat thereof on  
file and of record in the office of Recorder of said county.

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

**ARTICLE I**

**DEFINITIONS**

Section 1. Owner shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 2. Properties shall mean and refer to that certain real property hereinbefore described.

Section 3. Lot shall mean and refer to any plot of land designated as a lot upon any recorded subdivision map of the Properties.

**ARTICLE II****ARCHITECTURAL CONTROL**

**Section 1. Architectural Committee.** A committee of three persons shall act as an Architectural Committee and shall, prior to any new construction in said subdivision, be furnished with one set of detailed plans and specifications of any proposed building to be located in said subdivision and shall be allowed fifteen (15) days to review said plans, drawings, and specifications. If the plans are not approved within said fifteen (15) days, they shall be deemed rejected. If said committee shall approve the proposed building, or any modification or alteration thereof, they shall so indicate by the dating and signing of the set of plans by a member of the committee, and their approval shall be construed as full compliance with the provisions of Paragraph One (1) of the original covenants. Said committee shall have sole discretion to determine what shall be substantial compliance with said covenants. No building shall occupy any portion of said subdivision without prior consent of said committee.

The initial committee shall consist of the following:

Peter A. Wierenga	P.O. Box 3352, Boise, ID 83703
Kathryn Wierenga	P.O. Box 3352, Boise, ID 83703
Thom Wierenga	P.O. Box 3352, Boise, ID 83703

A majority of said committee is empowered to act for the committee. In the event any member of the committee is unable to act or fails or desires not to act, the remaining committee members shall appoint an owner of a Lot in said subdivision to serve on said committee, all of whom shall serve without compensation.

Upon the sale of the last lot in the subdivision, the work of the initial committee shall be deemed completed and said committee members shall then be automatically released from all responsibilities thereto.

After release of the Initial Committee, any homeowners who desire to serve on said committee may do so provided fifty percent (50%) of the homeowners in existence agree thereto.

**Section 2. Covenants, Conditions, and Restrictions.** The following covenants shall run with the land and be in force and effect for thirty (30) years hereafter unless sooner terminated by agreement by the owners of sixty-seven percent (67%) of the land in the subdivision. Modification or termination of these covenants can only be made with the consent of the owners while any lots in this subdivision remain in their ownership, and are as follows, to-wit:

(1) No building, fence, wall, structure, improvement, or obstruction shall be placed or permitted to remain upon any part of said property unless a written request for approval thereof containing the plans and specifications thereof, including exterior color scheme, has been approved in writing by the Architectural Committee. The approval of the Committee shall not be unreasonably withheld if the said plans and specifications are for improvements which are similar in general design and quality, and generally in harmony with the dwellings then located on said property.

Variances in building setback requirements shown on plat may be given by the Architectural Committee upon proper showings and so long as the City ordinances on setbacks are met.

Lot 1 Block 1 had a home in existence prior to development of the subdivision. Said Lot is excluded from the following building covenants.

The floor areas of a one-story house in this subdivision shall not be less than 1250 square feet on the ground floor. However, where continuous roof lines cover entrance or porch areas, breezeways, or patios, twenty-five percent (25%) of the floor area of such covered areas may be included at the discretion of the Architectural Committee in determining the ground floor area of the home. Two-story and tri-level homes shall have no less than 1500 square feet, exclusive of covered porches, entrances, or patios. No split-entry homes will be allowed.

The value of any residence inclusive of the lot shall exceed Eighty Thousand dollars (\$80,000.00) based on October 1992 values.

Each house in this subdivision shall include some brick or stone on the front exposure and roofs of at least 4 in 12 pitch. Bay windows, broken roof lines, gables, hip roofs, etc., are strongly encouraged. Exterior colors of earth tones or light blues or grays shall be encouraged. Bright or bold colors, or very dark colors, shall be discouraged and must be approved by the Architectural Committee.

No gravel roofs or moving of pre-built homes into the subdivision will be allowed without the approval of the Architectural Committee.

All the lots shall be provided with a driveway and a minimum of two off-street automobile parking spaces within the boundaries of each lot.

All area requirements shall be exclusive of the required two-car garage area and shall be well-constructed of good quality material and workmanship. For the purpose of the covenants, eaves, steps, and open porches shall not be considered as 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. No residence shall be in excess of two stories above ground.

All houses shall have an enclosed garage which will hold no less than two cars and no more than three.

Fences shall not extend closer than ten (10) feet to the property line, including sod and shrubs, on the side of the house next to a side street and shall not extend closer than twenty (20) feet to the front property line nor higher than six(6) feet without express approval of the Architectural Committee, and shall be of good quality and workmanship and shall be properly finished and maintained. The location of fences, hedges, high plantings, obstructions, or barriers, shall be so situated as not to unreasonably interfere with the enjoyment and use of neighboring properties and streets and shall not be allowed to constitute an undesirable, nuisance, or noxious use. The determination of the Architectural Committee shall be binding on all parties as to whether an undesirable, nuisance, or noxious use exists.

All recorded lots within this subdivision shall be subject to and restricted by the following recorded subdivision covenants:

(a) A monthly sewer charge must be paid after connecting to the Boise City public sewer system, according to the ordinances and laws of Boise City.

(b) Owner shall submit to inspection by either the Department of Public Works or the Department of Building whenever a subdivided lot is to be connected to the sewage

system constructed and installed on and within its property.

(c) The applicant/owner of this subdivision or lot or lots therein shall and hereby does vest in Boise City the right and power to bring all actions against the owner of the premises hereby conveyed or any party thereof for the collection of any charges herein required and to enforce the conditions herein stated.

(2) No building shall be located on any lot nearer than twenty (20) feet from the front line and fifteen (15) feet from the rear line nor nearer than five (5) feet per story to any side line.

(3) Construction of any residences on the subdivision shall be diligently pursued after commencement thereof, and shall be completed within six (6) months.

(4) Landscaping of front yard must be completed within thirty (30) days of substantial completion of the home, or within thirty (30) days of occupancy, and is to include sod in the front yard, one flowering tree of at least 1 1/2" caliper or pine tree of at least six (6) feet in height, three (3) five gallon plants and five (5) one gallon shrubs. Berms and sculptured planting areas are encouraged. In the event of undue hardship due to weather conditions, this provision may be extended for a reasonable length of time upon written approval of the Architectural Committee. Grass will be planted in the back yard within one year of occupancy. All grass and landscaping shall be maintained by the property owner in a sightly manner and shall be kept as weed-free as possible. Fine grading on each individual Lot shall be required to conform to the master drainage plan of the subdivision.

(5) No building shall be moved onto the premises.

(6) No shack, tent, trailer house, storage building or basement only, shall be use within the subdivision for living quarters, permanent or temporary.

(7) Nothing of an offensive, dangerous, odorous, or noisy endeavor shall be conducted or carried on nor shall anything be done or permitted in said subdivision which may be or become an annoyance or nuisance to the other property owners in said subdivision. Weeds shall be cut to less than four (4) inches on vacant lots.

(8) Keeping or raising farm animals or poultry is prohibited. No animals shall be kept or raised for commercial purpose. All dogs and cats or household pets kept on these premises shall be properly fed and cared for and shall be adequately fenced so as not to annoy or trespass upon the use of the property of others.

(9) Dogs shall not be allowed to run at large. Not more than two (2) animals may be kept at one time, except that a litter of young may be kept until eight (8) weeks old.

(10) No business shall be conducted on the above property that cannot be conducted within the residence of the owner as permitted by law. No signs shall be installed to advertise said business. No oil exploration or development of any nature or kind or mining exploration, development, or structure shall be permitted upon the lots in the subdivision.

(11) Only one outbuilding per lot will be allowed. All outbuildings shall be constructed of good quality building material, completely finished and painted on the outside and shall be of a quality and character that will be in harmony with the other buildings on said property and must be approved by the Architectural Committee.

(12) No building or structure shall be placed on said property so as to obstruct the windows or light of any adjoining property owner in said subdivision.

(13) Additional easements: In addition to the easements shown on the recorded plat, an easement is further reserved five (5) feet on each side of all other lot lines for installation and maintenance of utilities, irrigation, and drainage. 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 the utilities, or which may change the direction of the flow of water through the 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 for which a public authority or utility is responsible.

(14) This subdivision is within the Boise Valley Irrigation Canal District and subject to any and all assessments of said District of any and all Water Districts or Authority within the subdivision. The Declarant has made no provisions that provide for future delivery of irrigation water to the individual lots.

(15) All bathroom, sink, and toilet facilities shall be located inside the dwelling house or other suitable appurtenant building, and shall be connected by underground pipe to wet line sewer connection lines which have been provided to each lot.

(16) No sign of any kind shall be displayed to public view on any building or building site on said property except a professional sign of not more than five (5) square feet advertising the property for rent by an owner or for sale or to advertise the property during the construction and sales period. If a property is sold or rented, any sign relating thereto shall be removed immediately, except that the Declarant or its agent may post a "Sold" sign for a reasonable period following the sale. Notwithstanding any provision to the contrary, signs of any and all sizes and dimension may be displayed by the Declarant, without limitation thereto, for subdivision identification.

(17) No lot or building site included within this subdivision shall be used or maintained as a dumping ground for waste material. Incinerators are not permitted. Receptacles for storage or trash, garbage, etc., shall be maintained in a sanitary and clean condition.

(18) Parking of boats, trailers, motorcycles, trucks, truck-campers, and like equipment, or junk cars or other unsightly vehicles, and like items shall not be allowed on any part of said property nor on public ways adjacent thereto excepting only within the confines of an enclosed garage, or other approved enclosure, and no portion of same may project beyond the enclosed area. Garage driveways shall not be extended on either side for additional parking without first securing Architectural Committee approval. For the purpose of this section, an approved area may be beside the house but not on a street side, and consist of a six (6) foot solid board fenced enclosure that is, on the front, no closer than ten (10) feet to the nearest front corner of the house. If the height of the stored item is greater than the height of the front fence, the fence must be two (2) feet farther from the nearest front corner of the house for each part of a foot the item extends above the fence and the item must be stored two (2) feet away from any side yard fence for each part of a foot it extends above said fence, but in no case will the item be allowed to be stored if its height is greater than nine (9) feet or length greater than twenty-five (25) feet. The Architectural Committee shall be the sole and exclusive judges of approved parking areas.

(19) No machinery, building equipment or material shall be stored upon site until Grantee is ready and able to commence the construction. Building materials shall be placed within the property line of the building site upon which the structure is to be erected.

(20) Installation of radio and/or television antennae or satellite dishes is prohibited outside any building without written consent from the Architectural Committee, which would require them to be screened from the street view.

(21) The Architectural Committee's decision is final and binding on all issues.

**Section 3. Damage to Improvements.** It shall be the responsibility of the Builder of any residence in this subdivision to leave street, curbs, sidewalks, fences, tiled irrigation lines, if any, and utility facilities free of damage and in good and sound condition at the conclusion of the construction period. It shall be conclusively presumed that all such improvements are in good, sound condition at the time building is begun on each Lot unless the contrary is shown in writing at the date of conveyance or by date of possession, whichever date shall first occur, which notice is addressed to a member of the Architectural Committee.

**Section 4. Time Extension for Covenants.** The covenants set forth in this instrument shall run with the land and shall be binding on all persons owning a lot(s) under them for a period of thirty (30) years from the date of this recording thereof, after which time such covenants shall be automatically extended for successive periods of ten (10) years, unless at any time after the initial recording of this instrument, an instrument signed by sixty-seven percent (67%) of the lot owners of this subdivision has been recorded agreeing to terminate said covenants, in whole or in part.

**Section 5. Enforcement.** Enforcement against any person or persons violating or attempting to violate any covenant herein after ten (10) days notice thereof in writing served on the offending party, shall be had by any property owners either at law or equity. In the event of judgement against any person for such, the Court may award an injunction against any person for such violation, require such compliance as the Court deems necessary, award such damages, reasonable counsel fees, and Court costs as may be suffered or incurred, and such other or further relief as may be deemed just and equitable.

### ARTICLE III

#### GENERAL PROVISIONS

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

**Section 2. Severability.** Invalidation of any one of these covenants or restrictions by judgement or other 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, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first thirty (30) year period by an instrument signed by not

less than sixty-seven percent (67%) of the Lot Owners. Any amendment must be recorded.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 31st day of November, 1992

Peter A. Wierenga  
PETER A. WIERENGA, General Partner  
SUNCREST DEVELOPMENT

STATE OF IDAH: State of IDAHO, County of ADA

County of Ada

On this notary public in a person whose name same.

On this 31st day of Dec. 1992 before me, the undersigned, a Notary Public for said State personally appeared

Peter A. Wierenga

know or believe to be the person whose name is subscribed to the within instrument as the General Partner

and acknowledged to me that he executed the same as such general partner

M. June Lawrence  
Notary Public for the State of Idaho  
Residing at: Base, Idaho  
Commission Expires 11/18/98

before me, the undersigned, a WIERENGA known to me to be the Iged to me that he executed the

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ADA COUNTY RECORDER  
J. DAVID N.

FOR *Hubble Engineering*

BELFLOWER SUBDIVISION

RECORDED

BY *K. Larson*  
*12-00*

DECLARATION OF '92 NOV 18  
SOLAR COVENANTS,  
CONDITIONS, AND RESTRICTIONS

PM 12 57

1480000748

THIS DECLARATION, made on the date hereinafter set forth by Suncrest Development, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the City of Boise, County of Ada, State of Idaho, which is more particularly described in Attachment A, incorporated herein by reference.

WHEREAS, Declarant proposes to subdivide the property described in Attachment A and create the Bellflower Subdivision pursuant to the Boise City Code and the Idaho Code.

WHEREAS, the Boise City Code requires that private restrictions be recorded with subdivision plats which provide the same level of solar access protection as required under the City's solar setback and new development solar access design ordinances.

NOW THEREFORE, in recognition of the economic and environmental benefits of solar energy use, Declarant desires to provide for the preservation of solar access in the subdivision and to that end desires to impose, in the form of covenants, conditions, and restrictions running with the land, a general scheme of solar access protection upon the ownership, use and occupation of all lots therein which shall be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I  
SOLAR ACCESS DEFINITIONS

A. Exempt Tree: Any preexisting vegetation as defined in Article II, Section B or any vegetation included on the list of solar friendly vegetation kept by the City of Boise's Public Works and Community Planning and Development Departments.



B. **Front Lot Line:** The line represented by the connection of the most distant corners of a lot, including flag lots, where said corners are in common with the boundary of a public or private road. For corner lots, the front lot line is designated on the plat.

C. **North Slope:** The gradient, in percent slope from the average finished grade of the front lot line of the shade restricted lot to the average finished grade of the solar lot line of a solar lot. The slope must be downward or decreasing in elevation from north to south.

D. **Restricted Vegetation:** A tree or other vegetation which is either evergreen, or if deciduous, tends to retain its leaves late in the fall and/or drop them late in the spring, or has a dense branching pattern which generally tends to block a high level of the sun's rays during the heating season. Refer to the list of "solar friendly" trees on file with the Boise City Public Works and the Community Planning and Development Departments.

E. **Shade:** That portion of the shadow cast by the shade point of a structure or vegetation which exceeds the 11.5 foot fence at the solar lot line at solar noon, January 21.

F. **Shade Point:** That part of a structure, tree or other object, on a shade restricted lot, which casts the longest shadow ( the most northerly shadow) when the sun is due south on January 21st at an altitude of twenty-six degrees (26°) above the horizon, except a shadow caused by a narrow object such as a chimney, antenna, utility pole, wire, etc.

G. **Shade Point Height:** The vertical distance or height measured from the average elevation at the solar lot line to the shade point. If the shade point is located at the north end of a ridge line of a structure oriented within forty-five degrees (45°) of a geodetic north-south line, the shade point height computed according to the preceding sentence may be reduced by three (3) feet. If a structure has a roof oriented within forty-five degrees (45°) of a geodetic east-west line with a pitch which is flatter than six (6) feet (vertical) in twelve (12) feet (horizontal), the shade point will be the eave of the roof. If such a roof has a pitch which is 6 feet in twelve or steeper, the shade point will be the peak of the roof.

H. **Shade Restricted Lot:** Any lot within the subdivision that is southerly of and adjacent to a solar lot. These lots have some restriction on vegetation types and structure height.

I. **Solar Friendly Vegetation:** A tree or other vegetation which is included on the solar friendly vegetation list kept by the City of Boise's Public Works and Community Planning and Development Departments.

J. **Solar Lot:** A lot having the following characteristics:

1. The front lot line is oriented within thirty degrees of a geodetic east/west bearing;
2. The lot to the immediate south has a north slope of ten percent or less;
3. Is intended for the construction of an above ground inhabited structure.

K. **Solar Lot Line:** The most southerly boundary of a solar lot: the line created by connecting the most distant southerly corners of the solar lot.

L. **Solar Setbacks:** The minimum distance, measured perpendicular in a southerly direction, from the center of the solar lot line to the shade point of a structure or to restricted vegetation based upon its height at maturity on the shade restricted lot.

## ARTICLE II SOLAR ACCESS COVENANTS, CONDITIONS AND RESTRICTIONS

A. **Shade Restriction:** Each lot within the subdivision which is classified as a Shade Restricted Lot shall have the following restriction: Any structure or restricted vegetation (solar unfriendly) cannot cast a shadow higher than an imaginary fence 11.5 feet above the solar lot line on solar noon of January 21st when the sun is at an angle of twenty-six degrees above the horizon. This sun angle at noon on January 21st causes structures, vegetation, and other objects to cast a shadow twice as long as their height. The height of the shade point of a structure on the shade restricted lot is limited to nineteen feet at the fifteen foot rear yard zoning setback in order that the 11.5 foot high "solar fence" at the north property line of the Shade Restricted Lot is not exceeded. These standards assure that a structure built to the 15 foot rear year zoning setback, on the Solar Lot located to the north, will not be shaded more than four feet above grade on its south wall on January 21 at solar noon.

B. **Pre-Existing Vegetation:** Restricted vegetation (solar unfriendly), which existed when the subdivision was platted is exempt from the provisions of these covenants, conditions, and restrictions. Any lot which would be shaded beyond the allowed shade limit by such vegetation shall not be classified as a Solar Lot.

C. **Slope Exemption:** Any lot with an average finished grade along the north-south lot dimension grater than ten percent shall be exempt from the terms and conditions of these covenants, conditions, and restrictions.

D. **Solar Setbacks:** Each separate structure and item of restricted vegetation shall have a solar setback dependant on and calculated by its shade point height. All shade restricted lots shall have the following solar setback:

$$\text{Solar Setback (in feet)} = [\text{Shade Point Height (in feet)} - 11.5'] \times 2.$$

E. **Solar Friendly Vegetation:** Certain vegetation is considered "solar friendly" and is not restricted in regards to location on individual lots. Such vegetation is deciduous, dropping its leaves during early fall and regaining them during late spring. Such vegetation also has sparse branching which allows a high level of sunlight to penetrate through. This growth cycle produces shading during summer but allows sun to penetrate during winter. A list of acceptable solar friendly trees is maintained by the City of Boise's Public Works and Community Planning and Development Departments.

**ARTICLE III  
SOLAR ACCESS RIGHTS, DUTIES  
AND RESPONSIBILITIES**

A. **Solar Access Rights:** The owner(s) of solar lots shall have a right to unobstructed solar access in accordance with these covenants, conditions and restrictions.

B. **Solar Access Duties:** The owner(s) of any lot shall not build, install, or otherwise allow a structure or non-solar friendly tree on that lot to cast more shade at their solar lot line than permitted under these solar access covenants, conditions and restrictions.

**ARTICLE IV  
MISCELLANEOUS**

**A. Enforcement and Non-Waiver:** Any lot owner, or homeowner association, whether or not directly affected, shall have the right to enforce, by any proceeding at law or in equity, any violation or threatened violation of a provision of this Declaration. The failure of any person to enforce any covenant or restriction herein contained shall not be deemed a waiver of the rights granted herein. Waiver of one breach does not constitute waiver of any other breach. There can be no waiver of the right to solar access created by this Declaration.

**B. Severability:** Invalidation of any one of these covenants or restrictions by judgement or court order shall in no way affect any other provisions, which shall remain in full force and effect.

**C. Duration and Applicability to Successors:** The covenants, conditions and restrictions set forth in this Declaration shall be in effect perpetually, shall run with the land and shall inure to the benefit of and be binding upon the Declarant and all lot owners in the subdivision and their successors in interest.

**D. Amendment:** This Declaration may be amended by the action of the owners of a majority of the lots in the subdivision affected by such amendment provided the amendment does not reduce the amount of solar access protection provided to the subdivision and the amendment is approved by the City of Boise.

1480000753

IN WITNESS WHEREOF, the undersigned being the Declarant herein has caused this instrument to be executed this 10 day of November, 1992.

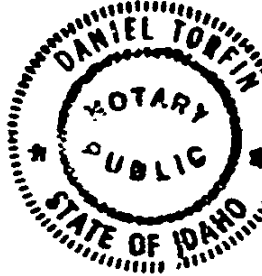
BY: SUNCREST DEVELOPMENT

Carl K. Baker  
CARL K. BAKER

Peter A. Wierenga  
PETER A. WIERENGA

STATE OF IDAHO )  
                          ) : ss.  
County of Ada     )

On this 10<sup>th</sup> day of November, 19 92, before me AND CARL K. BAKER, the undersigned, a notary public in and for said state, personally appeared PETER A. WIERENGA known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same.



Daniel A. Torfin  
Notary Public for Idaho  
Residing at Franklin, Idaho  
My Commission Expires 11/3/97

9279779

ADA COUNTY I.D. FOR  
J. DAVID HARRRO  
RECORDER

*Hubble Engineering*  
BY *K. Larson*  
21.00

'92 NOV 18 PM 12 57

**BELFLOWER SUBDIVISION**

**DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS**

**1480000741**

THIS DECLARATION, made on the date hereinafter set forth by SUNCREST DEVELOPMENT, an Idaho Partnership (hereinafter referred to as "Declarant")

**WITNESSETH:**

WHEREAS, declarant is the owner of certain property in Boise City, County of Ada, State of Idaho, which is more particularly described as:

A portion of the NE 1/4 of section 30, T.4N, R.2E, Boise Meridian,  
Boise City, Ada County, Idaho, according to the official plat thereof on  
file and of record in the office of Recorder of said county.

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

**ARTICLE I**

**DEFINITIONS**

Section 1. Owner shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 2. Properties shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Owners.

Section 3. Lot shall mean and refer to any plot of land designated as a lot upon any recorded subdivision map of the Properties.

**ARTICLE II****ARCHITECTURAL CONTROL**

**Section 1. Architectural Committee.** A committee of three persons shall act as an Architectural Committee and shall, prior to any new construction in said subdivision, be furnished with one set of detailed plans and specifications of any proposed building to be located in said subdivision and shall be allowed fifteen (15) days to review said plans, drawings, and specifications. If the plans are not approved within said fifteen (15) days, they shall be deemed rejected. If said committee shall approve the proposed building, or any modification or alteration thereof, they shall so indicate by the dating and signing of the set of plans by a member of the committee, and their approval shall be construed as full compliance with the provisions of Paragraph One (1) of the original covenants. Said committee shall have sole discretion to determine what shall be substantial compliance with said covenants. No building shall occupy any portion of said subdivision without prior consent of said committee.

The initial committee shall consist of the following:

Peter A. Wierenga	P.O. Box 3352, Boise, ID 83703
Thom Wierenga	P.O. Box 3352, Boise, ID 83703
Carl K. Baker	P.O. Box 3352, Boise, ID 83703

A majority of said committee is empowered to act for the committee. In the event any member of the committee is unable to act or fails or desires not to act, the remaining committee members shall appoint an owner of a Lot in said subdivision to serve on said committee, all of whom shall serve without compensation.

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(1) No building, fence, wall, structure, improvement, or obstruction shall be placed or permitted to remain upon any part of said property unless a written request for approval thereof containing the plans and specifications thereof, including exterior color scheme, has been approved in writing by the Architectural Committee. The approval of the Committee shall not be unreasonably withheld if the said plans and specifications are for improvements which are similar in general design and quality, and generally in harmony with the dwellings then located on said property.

Variances in building setback requirements shown on plat may be given by the Architectural Committee upon proper showings and so long as the City ordinances on setbacks are met.

Lot 1 Block 1 had a home in existence prior to development of the subdivision. Said Lot is excluded from the following building covenants.

The floor areas of a one-story house in this subdivision shall not be less than 1250 square feet on the ground floor. However, where continuous roof lines cover entrance or porch areas, breezeways, or patios, twenty-five percent (25%) of the floor area of such covered areas may be included at the discretion of the Architectural Committee in determining the ground floor area of the home. Two-story and tri-level homes shall have no less than 1500 square feet, exclusive of covered porches, entrances, or patios. No split-entry homes will be allowed.

The value of any residence shall exceed Seventy-five Thousand dollars (\$80,000.00) based on October 1992 values.

Each house in this subdivision shall include some brick or stone on the front exposure and roofs of at least 4 in 12 pitch. Bay windows, broken roof lines, gables, hip roofs, etc., are strongly encouraged. Exterior colors of earth tones or light blues or grays shall be encouraged. Bright or bold colors, or very dark colors, shall be discouraged and must be approved by the Architectural Committee.

No gravel roofs or moving of pre-built homes into the subdivision will be allowed without the approval of the Architectural Committee.

All the lots shall be provided with a driveway and a minimum of two off-street automobile parking spaces within the boundaries of each lot.

All area requirements shall be exclusive of the required two-car garage area and shall be well-constructed of good quality material and workmanship. For the purpose of the covenants, eaves, steps, and open porches shall not be considered as 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. No residence shall be in excess of two stories above ground.

All houses shall have an enclosed garage which will hold no less than two cars and no more than three.

Fences shall not extend closer than ten (10) feet to the property line, including sod and shrubs, on the side of the house next to a side street and shall not extend closer than twenty (20) feet to the front property line nor higher than six(6) feet without express approval of the Architectural Committee, and shall be of good quality and workmanship and shall be properly finished and maintained. The location of fences, hedges, high plantings, obstructions, or barriers, shall be so situated as not to unreasonably interfere with the enjoyment and use of neighboring properties and streets and shall not be allowed to constitute an undesirable, nuisance, or noxious use. The determination of the Architectural Committee shall be binding on all parties as to whether an undesirable, nuisance, or noxious use exists.

All recorded lots within this subdivision shall be subject to and restricted by the following recorded subdivision covenants:

(a) A monthly sewer charge must be paid after connecting to the Boise City public sewer system, according to the ordinances and laws of Boise City.

(b) Owner shall submit to inspection by either the Department of Public Works or the Department of Building whenever a subdivided lot is to be connected to the sewage



system constructed and installed on and within its property.

(c) The applicant/owner of this subdivision or lot or lots therein shall and hereby does vest in Boise City the right and power to bring all actions against the owner of the premises hereby conveyed or any party thereof for the collection of any charges herein required and to enforce the conditions herein stated.

(2) No building shall be located on any lot nearer than twenty (20) feet from the front line and fifteen (15) feet from the rear line nor nearer than five (5) feet per story to any side line.

(3) Construction of any residences on the subdivision shall be diligently pursued after commencement thereof, and shall be completed within six (6) months.

(4) Landscaping of front yard is the specific responsibility of the builder and must be completed within thirty (30) days of substantial completion of the home, or within thirty (30) days of occupancy, and is to include sod in the front yard, one flowering tree of at least 1 1/2" caliper or pine tree of at least six (6) feet in height, three (3) five gallon plants and five (5) one gallon shrubs. Berms and sculptured planting areas are encouraged. In the event of undue hardship due to weather conditions, this provision may be extended for a reasonable length of time upon written approval of the Architectural Committee. Grass will be planted in the back yard within one year of occupancy. All grass and landscaping shall be maintained by the property owner in a slightly manner and shall be kept as weed-free as possible. Fine grading on each individual Lot shall be required to conform to the master drainage plan of the subdivision.

(5) No building shall be moved onto the premises.

(6) No shack, tent, trailer house, storage building or basement only, shall be use within the subdivision for living quarters, permanent or temporary.

(7) Nothing of an offensive, dangerous, odorous, or noisy endeavor shall be conducted or carried on nor shall anything be done or permitted in said subdivision which may be or become an annoyance or nuisance to the other property owners in said subdivision. Weeds shall be cut to less than four (4) inches on vacant lots.

(8) Keeping or raising farm animals or poultry is prohibited. No animals shall be kept or raised for commercial purpose. All dogs and cats or household pets kept on these premises shall be properly fed and cared for and shall be adequately fenced so as not to annoy or trespass upon the use of the property of others.

(9) Dogs shall not be allowed to run at large. Not more than two (2) animals may be kept at one time, except that a litter of young may be kept until eight (8) weeks old.

(10) No business shall be conducted on the above property that cannot be conducted within the residence of the owner as permitted by law. No signs shall be installed to advertise said business. No oil exploration or development of any nature or kind or mining exploration, development, or structure shall be permitted upon the lots in the subdivision.

(11) Only one outbuilding per lot will be allowed. All outbuildings shall be constructed of good quality building material, completely finished and painted on the outside and shall be of a quality and character that will be in harmony with the other buildings on said property and must be approved by the Architectural Committee.

(12) No building or structure shall be placed on said property so as to obstruct the windows or light of any adjoining property owner in said subdivision.

(13) Additional easements: In addition to the easements shown on the recorded plat, an easement is further reserved five (5) feet on each side of all other lot lines for installation and maintenance of utilities, irrigation, and drainage. 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 the utilities, or which may change the direction of the flow of water through the 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 for which a public authority or utility is responsible.

(14) This subdivision is within the Boise Valley Irrigation Canal District and subject to any and all assessments of said District of any and all Water Districts or Authority within the subdivision. The Declarant has made no provisions that provide for future delivery of irrigation water to the individual lots.

(15) All bathroom, sink, and toilet facilities shall be located inside the dwelling house or other suitable appurtenant building, and shall be connected by underground pipe to wet line sewer connection lines which have been provided to each lot.

(16) No sign of any kind shall be displayed to public view on any building or building site on said property except a professional sign of not more than five (5) square feet advertising the property for rent by an owner or for sale or to advertise the property during the construction and sales period. If a property is sold or rented, any sign relating thereto shall be removed immediately, except that the Declarant or its agent may post a "Sold" sign for a reasonable period following the sale. Notwithstanding any provision to the contrary, signs of any and all sizes and dimension may be displayed by the Declarant, without limitation thereto, for subdivision identification.

(17) No lot or building site included within this subdivision shall be used or maintained as a dumping ground for waste material. Incinerators are not permitted. Receptacles for storage or trash, garbage, etc., shall be maintained in a sanitary and clean condition.

(18) Parking of boats, trailers, motorcycles, trucks, truck-campers, and like equipment, or junk cars or other unsightly vehicles, and like items shall not be allowed on any part of said property nor on public ways adjacent thereto excepting only within the confines of an enclosed garage, or other approved enclosure, and no portion of same may project beyond the enclosed area. Garage driveways shall not be extended on either side for additional parking without first securing Architectural Committee approval. For the purpose of this section, an approved area may be beside the house but not on a street side, and consist of a six (6) foot solid board fenced enclosure that is, on the front, no closer than ten (10) feet to the nearest front corner of the house. If the height of the stored item is greater than the height of the front fence, the fence must be two (2) feet farther from the nearest front corner of the house for each part of a foot the item extends above the fence and the item must be stored two (2) feet away from any side yard fence for each part of a foot it extends above said fence, but in no case will the item be allowed to be stored if its height is greater than nine (9) feet or length greater than twenty-five (25) feet. The Architectural Committee shall be the sole and exclusive judges of approved parking areas.

(19) No machinery, building equipment or material shall be stored upon site until Grantee is ready and able to commence the construction. Building materials shall be placed within the property line of the building site upon which the structure is to be erected.

(20) Installation of radio and/or television antennae or satellite dishes is prohibited outside any building without written consent from the Architectural Committee, which would require them to be screened from the street view.

(21) The Architectural Committee's decision is final and binding on all issues.

**Section 3. Damage to Improvements.** It shall be the responsibility of the Builder of any residence in this subdivision to leave street, curbs, sidewalks, fences, tiled irrigation lines, if any, and utility facilities free of damage and in good and sound condition at the conclusion of the construction period. It shall be conclusively presumed that all such improvements are in good, sound condition at the time building is begun on each Lot unless the contrary is shown in writing at the date of conveyance or by date of possession, whichever date shall first occur, which notice is addressed to a member of the Architectural Committee.

**Section 4. Time Extension for Covenants.** The covenants set forth in this instrument shall run with the land and shall be binding on all persons owning a lot(s) under them for a period of thirty (30) years from the date of this recording thereof, after which time such covenants shall be automatically extended for successive periods of ten (10) years, unless at any time after the initial recording of this instrument, an instrument signed by sixty-seven percent (67%) of the lot owners of this subdivision has been recorded agreeing to terminate said covenants, in whole or in part.

**Section 5. Enforcement.** Enforcement against any person or persons violating or attempting to violate any covenant herein after ten (10) days notice thereof in writing served on the offending party, shall be had by any property owners either at law or equity. In the event of judgement against any person for such, the Court may award an injunction against any person for such violation, require such compliance as the Court deems necessary, award such damages, reasonable counsel fees, and Court costs as may be suffered or incurred, and such other or further relief as may be deemed just and equitable.

### **ARTICLE III**

#### **GENERAL PROVISIONS**

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

**Section 2. Severability.** Invalidation of any one of these covenants or restrictions by judgement or other 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, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first thirty (30) year period by an instrument signed by not less than sixty-seven percent (67%) of the Lot Owners. Any amendment must be recorded.

1480000747

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 10 day of November, 19 92

Peter A. Wierenga  
PETER A. WIERENGA

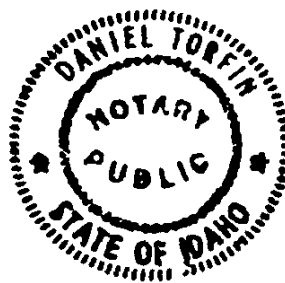
Kathryn Wierenga  
KATHRYN WIERENGA

Carl K. Baker  
CARL K. BAKER

Kathleen Baker  
KATHLEEN BAKER

STATE OF IDAHO  
County of Ada : ss.

On this 10<sup>th</sup> day of November, 19 92, before me, the undersigned, a notary public in and for said state, personally appeared PETER A. WIERENGA, KATHRYN WIERENGA, CARL K. BAKER and KATHLEEN BAKER known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.



Daniel Torfin  
Notary Public for Idaho  
Residing at 3000 S. Idaho  
My Commission Expires 11/8/97