

6 of 90 pages



\*W2686681\*

When recorded return to:

Fairway Oaks Home Owners Association  
4765 E 3925 N  
Eden, UT 84310

E# 2686681 PG 1 OF 90  
ERNEST D ROWLEY, WEBER COUNTY RECORDER  
16-MAY-14 1153 AM FEE \$225.00 DEP SGC  
REC FOR: FAIRWAY OAKS HOA

AMENDED AND RESTATED DECLARATION  
OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
FAIRWAY OAKS HOME OWNERS ASSOCIATION

TABLE OF CONTENTS

Article 1 – Definitions . . . . . 2

    1.1 “Acts” . . . . . 2

    1.2 “Additional Charges” . . . . . 2

    1.3 “Articles” . . . . . 2

    1.4 “Assessment” . . . . . 2

    1.5 “Association” . . . . . 3

    1.6 “Board of Directors” or “Board” . . . . . 3

    1.7 “Bylaws” . . . . . 3

    1.8 “Common Area” . . . . . 3

    1.9 “Common Expenses” . . . . . 3

    1.10 “Common Expense Fund” . . . . . 4

    1.11 “Common Flora Improvements” . . . . . 4

    1.12 “Common Improvements” . . . . . 4

    1.13 “Declaration” . . . . . 4

    1.14 “Dwelling” . . . . . 4

    1.15 “Eligible Mortgagee” . . . . . 4

    1.16 “Governing Documents” . . . . . 4

    1.17 “Lot” . . . . . 5

    1.18 “Majority of the Owners” . . . . . 5

    1.19 “Manager” . . . . . 5

    1.20 “Member” . . . . . 5

    1.21 “Mortgage” . . . . . 5

    1.22 “Mortgagee” . . . . . 5

    1.23 “Owner” . . . . . 5

    1.24 “Owner Improvements, Equipment or Amenities” . . . . . 6

    1.25 “Percentage Interest” . . . . . 6

    1.26 “Plat Map(s)” . . . . . 6

    1.27 “Project” . . . . . 6

    1.28 “Recorder’s Office” . . . . . 6

    1.29 “Reserve Fund” . . . . . 6

    1.30 “Rules and Regulations” . . . . . 6

    1.31 “Unit” . . . . . 7

    1.32 “Vacant Lot” . . . . . 7

    1.33 “Yard(s)” . . . . . 7

Article 2 – Description of Project . . . . . 7

    2.1 Generally . . . . . 7

    2.2 Land . . . . . 7

    2.3 Lot Location and Description . . . . . 7

    2.4 Common Area . . . . . 8

    2.5 Yards . . . . . 8

    2.6 Dwellings . . . . . 8

    2.7 Percentage of Undivided Interest in Common Area . . . . . 8

Article 3 – Owner’s Association . . . . .	8
3.1 Form of Association . . . . .	8
3.2 Membership . . . . .	8
3.3 Voting . . . . .	9
3.4 Bylaws of Association . . . . .	10
3.5 Attorney in Fact . . . . .	10
Article 4 – Board of Directors . . . . .	11
4.1 Board Purpose . . . . .	11
4.2 Board Approvals . . . . .	11
4.3 Board Authority . . . . .	11
Article 5 – Maintenance, Repair and Replacement . . . . .	13
5.1 Generally . . . . .	13
5.2 Lots and Dwellings . . . . .	13
5.3 Common Area . . . . .	14
5.4 Common Improvements . . . . .	16
5.5 Owner Improvements, Equipment or Amenities . . . . .	18
5.6 Noxious Weeds . . . . .	19
5.7 Aesthetics . . . . .	20
5.8 Board Rules / Fines . . . . .	20
Article 6 – Aesthetics and Architectural Standards . . . . .	20
6.1 Generally . . . . .	20
6.2 Building and Design Standards . . . . .	20
6.3 Design Review Board . . . . .	20
6.4 Dwellings . . . . .	21
6.5 Common Area / Yards . . . . .	21
6.6 Common Improvements . . . . .	21
6.7 Vacant Lots . . . . .	22
6.8 Fines . . . . .	22
Article 7 – Restrictions on Use . . . . .	22
7.1 Occupation and Use . . . . .	22
7.2 Prohibited Occupation or Uses . . . . .	22
7.3 Commercial / Retail Activities . . . . .	22
7.4 Common Area . . . . .	23
7.5 Vacant Lots . . . . .	23
7.6 Fences Prohibited . . . . .	23
7.7 Clotheslines Prohibited . . . . .	23
7.8 Outdoor Recreational Equipment Prohibited . . . . .	24
7.9 Storage Sheds Prohibited . . . . .	24
7.10 Signage . . . . .	24
7.11 Exterior Lighting . . . . .	24
7.12 Irrigation/Sprinkler Systems . . . . .	25
7.13 Vehicle Parking . . . . .	25

7.14	Vehicle Speed Limits . . . . .	26
7.15	Nuisances and Offensive Activity . . . . .	26
7.16	Mailboxes . . . . .	26
7.17	No Hazardous Activity . . . . .	26
7.18	Communication Devices . . . . .	27
7.19	Driveways and Walkways . . . . .	27
7.20	Hot Tubs . . . . .	28
7.21	Animals . . . . .	28
7.22	Dwelling Completion Before Occupancy . . . . .	29
7.23	Long-Term and Short-term Leases/Rentals . . . . .	29
7.24	Effect on Insurance . . . . .	29
7.25	Board Rules / Fines . . . . .	30
Article 8 – Fines . . . . .		30
8.1	Generally . . . . .	30
8.2	Imposition of Fines . . . . .	30
8.3	Tenants/Guests/Occupants . . . . .	31
Article 9 – Budgets and Expenses . . . . .		31
9.1	Association Budget and Estimated Expenses . . . . .	31
9.2	Reserve Fund Line Item . . . . .	32
9.3	Common Expense Fund . . . . .	33
9.4	Reserve Analysis . . . . .	33
9.5	Reserve Fund . . . . .	33
9.6	Funds to be Maintained Separately . . . . .	34
9.7	Recordkeeping . . . . .	34
Article 10 – Assessments . . . . .		34
10.1	Owner Payment of Assessments . . . . .	34
10.2	Annual Assessments . . . . .	36
10.3	Special Assessments . . . . .	37
10.4	Collection of Assessments / Failure to Pay . . . . .	38
10.5	Lien / Foreclosure . . . . .	39
10.6	Remedies Cumulative . . . . .	41
Article 11 – Compliance and Enforcement . . . . .		41
11.1	Enforcement . . . . .	41
11.2	Remedies . . . . .	41
11.3	Action by Owners . . . . .	42
11.4	No Waiver of Strict Performance . . . . .	42

Article 12 – Insurance .....	42
12.1 Property Insurance .....	42
12.2 Comprehensive General Liability (CGL) Insurance .....	43
12.3 Insurance Coverage for Theft and Embezzlement of Association Funds ..	43
12.4 Directors and Officers Insurance .....	43
12.5 Association Personal Property .....	43
12.6 Workers’ Compensation Insurance .....	44
12.7 Insurance Trustee .....	44
12.8 Insurance Trustees; Power of Attorney .....	44
12.9 Miscellaneous .....	44
12.10 Owner Insurance Coverage .....	45
Article 13 – Easements .....	45
13.1 In General .....	45
13.2 Association Functions .....	45
13.3 Governmental Public Services .....	45
13.4 Encroachments .....	45
Article 14 – Damage, Destruction or Condemnation .....	47
14.1 Damage or Destruction .....	47
14.2 Condemnation .....	47
14.3 Authority of Board to Represent Owners in Condemnation .....	48
14.4 Settlement Proceeds .....	48
14.5 Excess Insurance .....	48
14.6 Inadequate Insurance .....	48
Article 15 – Consent in Lieu of Vote .....	48
15.1 Sixty-Day Limit .....	49
15.2 Revocation of Written Consent .....	49
15.3 Change In Ownership .....	49
15.4 Notice .....	49
15.5 Statutory Requirements or Restrictions .....	49
Article 16 – Limitation of Liability .....	49
16.1 No Personal Liability .....	49
16.2 Indemnification of Board Members .....	50
Article 17 – Mortgagee Protection .....	50
Article 18 – Expansion / Contraction .....	52

Article 19 – Amendment to Declaration . . . . . 52

Article 20 – Miscellaneous . . . . . 52

    20.1 Service of Process . . . . . 52

    20.2 Notices for All Purposes . . . . . 52

    20.3 Security Disclaimer . . . . . 53

    20.4 Mechanics Lien . . . . . 53

    20.5 Severability . . . . . 53

    20.6 Effective Date . . . . . 54

    20.7 Rules Against Perpetuities and Unreasonable Restraints . . . . . 54

    20.8 Liberal Construction . . . . . 54

    20.9 Consistent with Acts . . . . . 54

    20.10 Covenant Running with Land . . . . . 54

    20.11 "Person", etc. . . . . 54

    20.12 Captions and Exhibits . . . . . 55