

## SPRINGSIDE – PHASE 2

**RESTRICTIVE COVENANT AND EASEMENT**

Pursuant to Sections 52 and 71(1) of  
the Land Titles Act, Alberta

RECITALS:

101. Dundee Development Corporation (herein called “Dundee”), a body corporate with an office in Calgary, Alberta, is both the equitable owner and the registered owner of certain lands situate in Calgary, Alberta, which are described in Schedule “A” attached (herein collectively called “the lots” or individually called a “lot”). Each equitable owner of a lot and each registered owner of a lot is called an “Owner”. The City of Calgary is called the “City”.

102. Dundee wishes the lots to be subject to the restrictions, covenants, and limitations set forth in this Restrictive Covenant for the following reasons:

- (1) Dundee is developing a planned mixed-use residential community called Springside for the lots;
- (2) Dundee considers it to be desirable for the greater enjoyment of the lots;
- (3) Dundee believes that it will help to maintain the value of the lots;
- (4) Dundee believes that it will benefit future owners of the lots;
- (5) Dundee believes that it will protect the owner of a lot against the improper development and improper use by the owner of another lot;
- (6) Dundee believes that it will prevent building designs which are not suitable for the community, and Dundee believes that it will prevent the use of any building material which is not suitable for the community.

Therefore, Dundee does (for itself, for its transferees, and for its assignees) covenant and agree as follows:

1. Each lot shall be a servient tenement. Each lot shall be a dominant tenement.

All of the lots shall be subject to the restrictions and conditions herein set forth which shall be deemed to be covenants running with the land and annexed to the land and shall be binding upon and enure to the benefit of each lot and the Owner of each lot while he is an Owner, from time to time. The covenants shall also enure to the benefit of the City. The provisions of articles 2, 3, 9 and 23 in this Restrictive Covenant shall terminate on December 31, 2015.

2. An Owner shall not apply to the City for a building permit on the lot:
  - (1) prior to the delivery by the Owner to Dundee of a plot plan for the lot, a full set of plans for the building, or buildings on the lot, and the detailed schedule of each exterior finish for the building(s) on the lot; and
  - (2) prior to the date Dundee gives written approval for each item listed in subsection (1) above.
3. Without the prior written approval of Dundee an Owner shall not do (or permit) any alteration or change to the structure or appearance (including colours) of any building, or fence, or construct any free standing structure (e.g. gazebo, play structure, garage, carport, shed, etc.) on any lot.
4. No excavation shall be made on a lot except an excavation for the purpose of immediately commencing the construction of the building on the lot or an excavation for the immediate improvement of the gardens and grounds of the lot. Without the prior written permission of Dundee, no soil, sand, gravel or rock shall be removed from a lot, unless it is in excess of that required to complete the building and the lot grading to the approved plans.
5. An Owner shall not pour the concrete footings for a building prior to an elevation check on the footing formwork by Dundee's engineer.
6. An Owner shall not alter (or permit any alteration to) the overall drainage pattern and lot grades as specified on the lot grading plan (as issued with the Building Grade Slip by Dundee's engineer) and filed with the City Engineer.
7. No lot shall be used for the storage of materials or equipment other than materials or equipment which is usually stored in connection with the occupation of a building used for a private residence.
8. No building waste or other material of any kind shall be dumped or stored on a lot, except uncontaminated earth for the purposes of grading and for the construction of a structure on the lot or for the immediate improvement of the gardens and grounds of the lot.
9. Except for a "For Sale" sign for the lot, without the prior written permission of Dundee an Owner shall not permit any sign, billboard, notice, or other advertisement material of any kind to be placed on any part of the lot including but not limited to a fence, a tree, a building or other structure. Dundee has the right to remove any sign not approved.
10. No television or radio antenna, transmitter, or receiver or other communication device shall be permitted on any portion of a lot or building on a lot, if the communication device is visible from a street or park.

11. No horses, cattle, hogs, sheep, poultry, or other stock or animals other than those normally permitted in private homes in urban residential areas shall be kept upon a lot; and no breeding of pets for sale is permitted and no boarding of pets is permitted.

12. Except on City designated days for garbage pick-up, no garbage or refuse may be stored so that the containers or refuse can be visible from a street.

13. An Owner shall not park (or permit any person to park) anywhere on a lot (other than in a garage) for a period of time longer than five days: a motorhome, recreation vehicle, a boat, truck-mounted camper, or un-mounted camper, trailer, truck or any vehicle which is in a dilapidated condition or is not in good running order.

14. An Owner shall not allow the exterior of any dwelling or structure on the lot, or a fence either partially or wholly within the lot, to become unsightly or to deteriorate into poor condition or poor repair, nor shall an Owner allow any portion of a lot to become or remain unsightly or untidy.

15. An Owner shall not allow a front or rear driveway to be left unpaved or unconcreted for a period longer than 30 days after the house is complete (ie. able to be occupied) unless the completion occurs when ground frost is present, in which case the Owner shall have until the immediately following May 31<sup>st</sup> to complete the driveway.

16. An Owner shall not allow any portion of a lot to be left in an unlandscaped condition for a period longer than 30 days after occupancy unless occupancy occurs between October 1<sup>st</sup> and the following May 31<sup>st</sup> in which case the Owner shall have until the immediately following June 30<sup>th</sup> to complete such landscaping.

17. An Owner shall not allow the predominant landscaping material in the front yard of any lot, or the front and side yard of a corner lot, to be anything other than grass, excepting that portion of the yard occupied by a driveway. A driveway shall not occupy more of a lot than is reasonably necessary for access to or from a garage.

18. An Owner shall not direct the water from a roof drainage system into an underground pipe which:

- (1) discharges below ground level into any right-of-way, either within or immediately adjacent to the lot; or
- (2) discharges above ground such that a concentrated flow crosses any property line of the lot; or
- (3) extends beyond any property line of the lot, except if the underground pipe is the storm sewer service connection provided for the lot (where applicable).

19. An Owner shall not make (or permit) the City or Dundee pay to the Owner any loss, claim, demand, action, payment, suit, recovery, or judgement of any kind whatsoever arising out of or related to soil subsidence or erosion as a result of any development or any subsequent alterations, extensions, modification, or addition to any building, drainage system, or parking area of any lot. The Owner shall indemnify and save harmless the City and Dundee from and against any loss, claim, demand, action, against the City or Dundee arising out of or related to soil subsidence or erosion as a result of any development or any subsequent alteration, extension, or addition to any building, drainage system, or parking area of any lot.

20. The Owner of a lot adjacent to a registered utility right-of-way (and the Owner of a lot upon which a registered utility right-of-way is situate) shall not do or permit dirt, fill, loam, sand, gravel, paper, wood, debris, snow, ice, or slush (collectively called "material") to accumulate on the right-of-way or to remain in or upon the right-of-way. The right-of-way may include any concrete or asphalt drainage gutter or structure which may hereinafter be constructed upon the right-of-way. The aforesaid Owner shall not allow any material to alter the level or the grades of the lot or the right-of-way in relation to the levels and grades established and constructed in accordance with the grade plan filed with the City Engineer or which would restrict, impair, impede, or otherwise interfere with the rights of any grantee by virtue of any registered easement between Dundee (as grantor) and the grantee.

21. Each fence, noise attenuation wall or decorative stucco wall constructed by Dundee is described on Schedule "B" and in this Restrictive Covenant is called "Fence". If a Fence is partially or totally on an Owner's lot, the Owner shall not make or permit:

- (1) the Fence to be partially or totally removed; or
- (2) the Fence to be painted a different colour or to be altered in design, appearance, elevation or location; or
- (3) the Fence to become unsightly or to deteriorate into poor condition or poor repair; or
- (4) the Fence to be repaired or replaced except with good materials and good workmanship.

22. An Owner of any lot shall not:

- (1) construct a chain link fence anywhere on the lot, whether as a boundary fence, interior fence, gate, or to create an enclosed area within the lot; or
- (2) construct a fence anywhere in the front yard of a single family lot unless such construction is to repair or replace a Dundee Fence described on Schedule "B", or

- (3) construct a fence anywhere in the rear yard of a single family lot that has a rear property line in common with a reserve lot (i.e. park or open space) unless that fence follows a side property line, in which case the height of the fence shall not exceed the height of the rear property line Fence.

23. Without the prior written approval of Dundee an Owner shall not construct a fence unless the fence is identical to the colour and design of a Fence built by Dundee.

24. An Owner of Lot 62 in Block 10 and Lot 1 in Block 12 which is to have constructed thereon by Dundee an identification sign and decorative stucco wall inside the property line, (hereinafter called the "Structure"), shall not make or permit:

- (1) the Structure to be partially or totally removed; or
- (2) the Structure to be altered in design, appearance, elevation or;
- (3) the Structure to become unsightly or to deteriorate into poor condition or poor repair; or
- (4) the Structure to be repaired or replaced except with good materials and good workmanship.

25. If a Structure identified in article 24 above lies wholly or partially in a utility right-of-way registered on the lot, then the Owner of the lot shall not make or permit:

- (1) the City, Dundee or a utility company (as grantee) entitled to use the right-of-way, pay to the Owner any loss, claim, demand, action, payment, suit, recovery, or judgement of any kind whatsoever arising out of the exercising of any rights of any grantee as described in the registered easement agreement with Dundee (as grantor). The exercising of rights may include, but not be limited to, the whole or partial removal or incidental damage to the Structure;
- (2) the Structure to remain wholly or partially removed, or damaged, for a period longer than fourteen (14) days after the completion of work by a grantee.

26. (a) Each Owner of any of those lots described as Lots 8, 14, 15, 16, 30, 31, 32, 33, 34, 35 and 36 in Block 4, Lots 8, 16 and 26 in Block 6, Lot 7 in Block 7, Lot 62 in Block 10 and Lot 1 in Block 12 (hereinafter collectively referred to as the "Easement Lands") does for itself and for its successors in title to such lots (the "Feature Lot Owners") acknowledges that certain decorative stucco walls, Structures and noise attenuation walls have been constructed, partially or totally, on the Easement Lands for the benefit of all Owners. In consideration of the Springside Residents' Association (the "Association") paying for the cost related to such maintenance and repair to the walls and enhanced features, the Feature Lot Owners hereby irrevocably and unconditionally appoint the Association to act on behalf of the Feature Lot Owners, as agents for the Feature Lot Owners, to perform or caused to be performed certain maintenance and

repairs to walls and enhanced features and to ensure that they are landscaped in an aesthetically acceptable manner (as determined by the Association in its sole and unfettered discretion). Notwithstanding the foregoing, nothing herein shall discharge the Feature Lot Owners of their obligations set forth in articles 21 and 24.

(b) The Feature Lot Owners do hereby grant so as to burden the Easement Lands in favour of the Association and to benefit the Easement Lands, the Owners and the remaining lots, to the extent necessary to allow the Association, its members, agents, employees and contractors (inclusive of sub-contractors) the right, license, liberty, privilege, easement and right of way to enter upon the Easement Lands or any part thereof to effect and carry out its appointment and obligations pursuant to paragraph 26(a) hereof and, without limiting the generality of the foregoing, the Feature Lot Owners do hereby grant to the Association an easement to enter into or upon the Easement Lands or any part thereof to give effect to such interest.

27. Notwithstanding the covenant in article 13, an Owner of Lot 40 to 61 inclusive in Block 10 shall not make or permit any type of vehicle to access the lot from Wentworth Drive S.W. nor shall said Owner allow any type of vehicle, camper, boat, trailer or tent to be parked or set upon the front yard of the lot.

28. Any provisions of this Restrictive Covenant made void or rendered invalid by any law in force in the Province of Alberta or adjudged not to be in a covenant running with the land shall not invalidate or render unenforceable the remaining provisions of this Restrictive Covenant.


29. No action shall lie against Dundee for damages for breach of any one or more of the covenants contained in this Restrictive Covenant unless Dundee is registered as owner of the lot alleged to be in breach of the Restrictive Covenant. This article 29 shall constitute an absolute defence to any such action and may be pleaded as such.

30. In this Restrictive Covenant, the masculine and the singular shall be read as feminine, neuter and plural where the context requires.

IN WITNESS WHEREOF Dundee Development Corporation has hereunto subscribed its name this 17<sup>th</sup> day of Dec. 19 99.

DUNDEE DEVELOPMENT CORPORATION



  
 \_\_\_\_\_  
 President  
  
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 Michael J. Cowie  
 Vice President, Calgary Land

SCHEDULE "A"  
SPRINGSIDE – PHASE 2

Plan	Block	Lot
	4	8
	4	9
	4	10
	4	11
	4	12
	4	13
	4	14
	4	15
	4	16
	4	17
	4	18
	4	19
	4	20
	4	21
	4	22
	4	24
	4	25
	4	26
	4	27
	4	28
	4	30
	4	31
	4	32
	4	33
	4	34
	4	35
	4	36
	6	8
	6	10
	6	11
	6	12
	6	13
	6	14
	6	16
	6	17
	6	18
	6	19
	6	20
	6	21
	6	22
	6	23
	6	24
	6	25
	6	26
	7	1
	7	2

SCHEDULE "A"  
SPRINGSIDE – PHASE 2

Plan	Block	Lot
	7	3
	7	4
	7	5
	7	6
	7	7
	7	8
	7	9
	7	10
	7	11
	7	12
	7	13
	7	14
	10	40
	10	41
	10	42
	10	43
	10	44
	10	45
	10	46
	10	47
	10	48
	10	49
	10	50
	10	51
	10	52
	10	53
	10	54
	10	55
	10	56
	10	57
	10	58
	10	59
	10	60
	10	61
	10	62
	12	1



SCHEDULE "B"  
 SPRINGSIDE - PHASE 2  
 FENCES BUILT BY DUNDEE

Plan	Block	Lot	
	4	8	North side property line, decorative stucco wall
	4	8	Rear property line, screen style fence
	4	9	Rear property line, screen style fence
	4	10	Rear property line, screen style fence
	4	11	Rear property line, screen style fence
	4	12	Rear property line, screen style fence
	4	13	Rear property line, screen style fence
	4	13	South side property line, screen style fence
	4	14	North side property line, screen style fence
	4	14	East rear property line, screen style fence
	4	14	South rear property line, noise attenuation wall
	4	15	Rear property line, noise attenuation wall
	4	16	South rear property line, noise attenuation wall
	4	16	Southwesterly rear property line, lattice style fence
	4	16	Northerly side property line, screen style fence
	4	17	Southerly side property line, screen style fence
	4	17	Rear property line, lattice style fence
	4	18	Rear property line, lattice style fence
	4	19	Rear property line, lattice style fence
	4	20	Rear property line, lattice style fence
	4	21	Rear property line, lattice style fence
	4	22	Rear property line, lattice style fence
	4	22	North side property line, lattice style fence
	4	24	North side property line, lattice style fence
	4	24	Rear property line, lattice style fence
	4	25	Rear property line, lattice style fence
	4	26	Rear property line, lattice style fence
	4	27	Rear property line, lattice style fence
	4	28	Rear property line, lattice style fence
	4	30	Easterly side property line, lattice style fence
	4	30	Rear property line, noise attenuation wall
	4	31	Rear property line, noise attenuation wall
	4	32	Rear property line, noise attenuation wall
	4	33	Rear property line, noise attenuation wall
	4	34	Rear property line, noise attenuation wall
	4	35	Rear property line, noise attenuation wall
	4	36	Rear property line, noise attenuation wall
	4	36	West property line, screen style fence
	6	8	Portions of south property line, decorative stucco wall

SCHEDULE "B"  
 SPRINGSIDE - PHASE 2  
 FENCES BUILT BY DUNDEE

Plan	Block	Lot	
	6	8	Westerly property line, lattice style fence
	6	10	Easterly side property line, lattice style fence
	6	10	Rear property line, lattice style fence
	6	11	Rear property line, lattice style fence
	6	12	Rear property line, lattice style fence
	6	13	Rear property line, lattice style fence
	6	14	Rear property line, lattice style fence
	6	14	Northerly rear property line, lattice style fence
	6	16	West side property line, decorative stucco wall
	6	16	Rear property line, lattice style fence
	6	17	Rear property line, lattice style fence
	6	18	Rear property line, lattice style fence
	6	19	Rear property line, lattice style fence
	6	20	Rear property line, lattice style fence
	6	21	Rear property line, lattice style fence
	6	22	Rear property line, lattice style fence
	6	23	Rear property line, lattice style fence
	6	24	Rear property line, lattice style fence
	6	25	Rear property line, lattice style fence
	6	26	Rear property line, lattice style fence
	6	26	West side property line, decorative stucco wall
	7	1	Rear property line, screen style fence
	7	2	Rear property line, screen style fence
	7	3	Rear property line, screen style fence
	7	4	Rear property line, screen style fence
	7	5	Rear property line, screen style fence
	7	6	Rear property line, screen style fence
	7	7	Rear property line, screen style fence
	7	7	Northerly side property line, decorative stucco wall
	10	62	Portions of north property line, decorative stucco wall
	10	62	West property line, stuccoed noise attenuation wall
	12	1	Portions of south property line, decorative stucco wall
	12	1	West property line, stuccoed noise attenuation wall

NOTE: *Where a fence is indicated to be on a property line, it is actually completely inside the property line of the lot referenced.*

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Dated: \_\_\_\_\_, 1999

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DUNDEE DEVELOPMENT CORPORATION

Re:

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RESTRICTIVE COVENANT AND EASEMENT

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I CERTIFY that the within instrument is duly entered and registered in the Land Titles Office for the South Alberta Land Registration District of Calgary, in the Province of Alberta

\_\_\_\_\_  
Registrar

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PARLEE MCLAWS  
Barristers and Solicitors  
#3400, 150 – 6<sup>th</sup> Avenue S.W.  
Calgary, Alberta T2P 3Y7

**COPY OF INSTRUMENT**

001001018

LAND TRUST OFFICE  
COLUMBIA