

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
CRESTVIEW COVE**

RECITALS

Whereas, the undersigned (hereafter “Declarant”) is the owner of certain real property located in Pocatello, Bannock County, State of Idaho, identified as CRESTVIEW COVE, such property being more particularly described below (hereafter “Property”); and

Whereas, Declarant has subdivided the Property into lots and shall cause such lots to be conveyed subject to certain protective covenants, conditions and restrictions as hereinafter set forth in this Declaration of Covenants, Conditions and Restrictions (hereafter “Declaration”).

DECLARATION

NOW THEREFORE, Declarant hereby declares that all of the Property more particularly described as:

Lots 1-11 Block 1 Crestview Cove

Shall be held, sold, used, occupied, and conveyed subject to the following covenants, conditions, restrictions, easements, assessments, charges and liens, and to the plat of any neighborhood within the development, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. These covenants, conditions and restrictions shall run with the Property and shall be binding upon all parties having or acquiring any right, title or interest in the Property or any portion thereof and shall inure to the benefit of each such party. The acceptance of any deed to or conveyance of any lot, part or portion of the Property by the grantees named therein or by their legal representatives, heirs, executors, administrators, successors or assigns, shall constitute their covenant and agreement with the Declarant and with one another to accept, hold, improve, use and convey the property described and conveyed in such deed or conveyance subject to this Declaration.

ARTICLE 1 – DEFINITIONS

The following definitions control in this Declaration.

Section 1.1. Association means the CRESTVIEW COVE HOMEOWNERS ASSOCIATION its successors and assigns.

Section 1.2. Board of Directors means the governing body of the Association. The board shall consist of the Declarant while Founder Class membership exists and when no Founder Class membership exists the board shall consist of 3 Lot Owners as elected by the Association. Those elected shall serve annual terms from the time of election at which time they may be replaced or re-elected.

Section 1.3. Declarant means, jointly and severally, Satterfield Realty & Development, Inc., and the Declarant's heirs, successors and assigns.

Section 1.4. Declaration means this instrument, and any amendments thereto.

Section 1.5. Entire Membership means all Members, regardless of class of membership. When a vote of the Entire Membership is referenced it means all potential votes for both Owner Class and Founder Class Members.

Section 1.6. Lot means the separately numbered and individually described plots of land shown on any plat or plats recorded with regard to the Property and designated for private or common ownership.

Section 1.7. Member means every person or entity who holds membership in the Association. The Owners of Lots constitute the Members of the Association. Owners of common lots within the Property shall not be Members.

Section 1.8. Mortgage includes "deed of trust" and mortgagee includes "trust deed beneficiary."

Section 1.9. Owner means the entity, person, or group of persons owning fee simple title to any lot which is within the Property. Regardless of the number of parties participating in ownership of each lot, the group of those parties shall be treated as one "Owner."

Section 1.10. Plat means any neighborhood development plat recorded and subject to this declaration.

Section 1.11. Property means that certain real property described initially, and such additions and annexations thereto as may hereafter be subjected to this Declaration.

Section 1.12. Directors means the members of the governing body of the Association.

ARTICLE 2 - PROPERTY RIGHTS

Section 2.1. Limited Application of Article The provisions of this Article 2 shall apply to private Lots within the Development.

Section 2.2. Rules. The Board of Directors shall have the authority to promulgate rules and regulations for the governance of the Association's property, if any. These rules of the Association shall be compiled, and copies shall be made available for inspection and copying by the Members.

Section 2.3. Lots. Each building Lot (1-10) is owned in fee simple by the Owner. Lot 11 is to be owned jointly by the owners of lots 1-10. (see note on plat)

ARTICLE 3 -- MEMBERSHIP AND VOTING RIGHTS

Section 3.1. Membership. Every Lot Owner is a Member of the Association. The term "Owner" includes contract purchasers but does not include persons who hold an interest merely as security for the performance of an obligation unless and until title is acquired by foreclosure or similar proceedings. Membership is appurtenant to and may not be separated from Lot ownership. Membership in the Association automatically transfers upon transfer of title by the record Lot Owner to another person or entity.

Section 3.2. Voting Rights. The Association has two classes of voting membership:

OWNER CLASS. Owner Class Members shall be all Lot Owners with the exception of the Declarant, as defined in this Declaration. Owner Class Members are entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, the group of such persons shall be a single Member. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. A vote cast at any Association meeting by any of such co-Owners, whether in person or by proxy, is conclusively presumed to be the vote attributable to the Lot concerned unless written objection is made prior to that meeting, or verbal objection is made at that meeting, by another co-Owner of the same Lot. In the event an objection is made, the vote involved shall not be counted for any purpose except to determine whether a quorum exists.

FOUNDER CLASS. The Founder Class Member shall be the Declarant (as defined in this Declaration) Founder Class Members are entitled to five (5) votes for each Lot owned. The Founder Class membership shall cease and be converted to Owner Class membership on the happening of any of the following events, whichever occurs earlier: (a) conveyance of seventy-five percent (75%) of all Lots to purchasers; (b) the expiration of ten (10) years from the first conveyance of any Lot to a purchaser; or Declarant. (c) the surrender of Founder Class membership status by the express written action of the Declarant

ARTICLE 4 – FINANCES, OPERATIONS AND ASSOCIATION DUTIES

Section 4.1. Assessments. An Annual Assessment and any special assessment levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents of Crestview Cove, and in particular for the improvement and maintenance of the common areas, services, and facilities devoted to these purposes. No owner of a house may exempt that owner from liability for contribution toward the common expenses by waiver of the use or enjoyment of any of the common elements or by the abandonment of owner's house.

Section 4.2. Notice and Quorum for any Action Authorized Under Sections 4.1. Written notice of any meeting of Members called for the purpose of taking any action authorized under Sections 4.1 shall be sent to all Members at least thirty (30) days in advance of said meeting. At the first meeting called, the presence at the meeting of Members, or of proxies, entitled to cast sixty percent (60%) of all the votes of the Entire Membership shall constitute a quorum. If the quorum requirement is not met at such a meeting, another meeting may be called, on at least thirty (30) days advance written notice, and the required quorum at any such subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 4.3. Books, Records and Audit. The Association shall maintain current copies of the Declaration, Articles, Bylaws, Rules and other similar documents, as well as its own books, records and financial statements which shall all be available for inspection by Lot Owners and insurers as well as by holders, insurers and guarantors of first mortgages during normal business hours upon reasonable notice. Charges shall be made for copying, researching or extracting from such documents. A Lot Owner or holder, insurer or guarantor of a first mortgage may obtain an audit of Association records at its own expense so long as the results of the audit are provided to the Association.

Section 4.4. Exempt Property. The following property subject to this Declaration is exempt from the assessments created herein:

- (a) All property dedicated to and accepted by any local public authority;
- (b) All Common Area;
- (c) All Lots owned by Declarant and, as long as the Declarant has Founder Class membership status.

Section 4.5. Payment of Annual Assessment. At the time of the first conveyance or occupancy of each unit and from time to time thereafter, the Board shall notify the owner or owners of each lot as to the amount of the annual assessment and shall each month collect for each lot one-tenth (1/10) of said lot's proportional share of said annual assessment.

Section 4.6 Special Assessments. In addition to other assessments authorized by this Declaration the Board shall have the right and power to levy a special assessment applicable for the purposes of providing for the construction of additional recreational and other common facilities, unexpected repairs, or the alteration, replacement, demolition or removal of existing recreational and other common facilities, from time to time, as in its discretion appears to be in the best interest of the Association. Any such alteration, demolition, removal, construction, improvement or addition increasing the owner's assessment for that year over the then maximum limitation shall be authorized by an affirmative vote of a majority of the Board at a duly called meeting at which a quorum is present, and ratified and approved by a majority vote of the members who shall vote in person or by proxy at a meeting called for that purpose.

Section 4.7 Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all improved lots, and may be collected in a lump sum or on a monthly installment basis. Each owner's prorated share of any assessment shall be one-tenth (1/10) of the total amount of said assessment. In the event the actual number of improved lots is not ten (10), the denominator in the fraction "one-tenth" shall, wherever it appears in this Declaration be changed to reflect the correct total number of improved lots at the time of the assessment, but in all events excluding Lot 11.

Section 4.8 Operating Fund. There shall be an operating fund from which the Association shall make disbursements in performing the functions of the Association, and into which the Association shall deposit all moneys paid to it as Annual Assessments, Special Assessments, Miscellaneous fees, and Income and profits attributable to the operating fund.

Section 4.9 Duties of the Association. The association shall have certain duties, subject to and in accordance with this Declaration, to do and perform for the benefit of the owners and for the maintenance and improvement of Crestview Cove. These duties are to include:

- Operation of Common Areas,
- Payment of Taxes, Fees, and Insurance
- Rule Making
- Enforcement of Restrictions and Rules
- Notifications

ARTICLE 5 – INSURANCE

Section 5.1. Casualty Insurance on Insurable Common Area. The Association shall insure any property, whether real or personal, owned by the Association, against liability, loss, damage

or hazards as the Association may deem desirable, with the Association as the owner and beneficiary of such insurance. Premiums for all insurance carried by the Association are common expenses which shall be included in the regular annual assessments made by the Association.

ARTICLE 6 – ASSOCIATION EASEMENTS AND COMMON AREAS

Section 6.1. Landscape and Maintenance Easement. The landscape areas of Lots 1 -11 of Crestview Cove are to be covered with and subject to a Landscape and Maintenance Easement retained by Declarant in favor of the Association. The common area shall be held, maintained and used to meet the interests of owners or to enhance their enjoyment and common use. By this Declaration, Declarant does hereby create and reserve in favor of the Crestview Cove Homeowners Association, a landscape and maintenance easement upon all of the property described as lots 1 through and including Lot 10 except for the portions of those lots occupied by a dwelling unit or other accessory structure, said reservation being for purposes of allowing the Association to access to install, replace, repair and maintain all landscaping, including turf, shrubs, trees and related irrigation and other systems and to install or apply fertilizer, herbicides, pesticides and other chemicals for purposes of maintaining the landscaping. Each lot shall be subject to such easement and this easement shall run with the land and be binding upon all successors in interest to Declarant. By accepting said conveyance from Declarant of an owner's respective lot, owner implicitly and expressly agrees to be bound by this easement and to allow all of owner's lot, except that portion occupied by the dwelling and any accessory structure, to be taken care of by the Association for purposes of having common and uniform landscaping throughout the entire Crestview Cove Lots 1-10. Lot 11 is common area and is to be maintained in conjunction with the other landscaping. The Board shall be the sole judge as to the appropriate maintenance of all grounds within the common area.

Section 6.2 Member's Rights in Common Area. Every member shall own that member's lot subject to the Association's landscape easement and shall have a right and easement of enjoyment in and to the Common Areas appurtenant to that member's lot. Such right of enjoyment shall be subject to the restrictions and conditions set forth in this Declaration and to such reasonable rules and regulations as from time to time are promulgated by the Board.

ARTICLE 7 - USE RESTRICTIONS

Section 7.1. Construction, Business and Sales. Notwithstanding any provisions to the contrary herein contained, it shall be expressly permissible for Declarant to maintain such facilities and conduct such activities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the construction and sale of lots or homes during the period of construction and sale of said lots or homes and upon such portion of the premises as Declarant deems necessary including but not limited to a business office, storage areas, construction yard, signs, model units and sales offices.

Section 7.2. Land Use. CRESTVIEW COVE shall be used only for purposes consistent with this Declaration and any Supplement. The owner of any property within the development may impose additional covenants on its property with such approval as may be required from the board. If the provisions of any such additional covenants are more restrictive than the provisions of this Declaration, the more restrictive provisions control. The Association shall have standing and the power, but not the obligation, to enforce any such additional covenants.

Section 7.3. Exterior Building Materials. The general design expressed in the front of the house must be covered in entirety by painted LP Smartside or Hardie siding, stone, brick or

stucco, or a combination of such, or other materials as approved in writing by the Committee. The remaining 3 sides of the home may use similar materials as the front of the home, or they may be covered in seamless metal siding.

Section 7.4. Garages. All residences constructed on any lot within the Property shall be constructed with a fully enclosed, private garage, built to accommodate not less than two (2) vehicles. The height of the garage door headers shall not exceed four (4) feet of clearance above the height of a normal passenger vehicle, pickup truck or sport utility vehicle. All garages shall be constructed of the same exterior materials, and shall be in harmony and architecturally compatible with, the residence constructed on the lot.

Section 7.5. Roof Mounted Heat Pumps. Heat pumps and/or air conditioning or heating units shall not be allowed to be mounted on roofs.

Section 7.6. Driveways and Walkways. The primary driveway (that is the driveway leading from the street to the garage) and primary walkways (that is walkways leading from the street or driveway to the entrance of the residence), shall be constructed of standard gray concrete. In no event shall a driveway or walkway be constructed of dirt, sand, clay or road base material. Any RV or other parking pad proposed to be constructed to the side of a home or garage, must first be approved by the Committee in writing.

Section 7.7. Landscaping and Park Strip. Landscaping of the yards must be completed within 60 days after occupancy unless significant weather limitations prohibit the planting or growth of vegetation under which the time shall be extended until 30 days after the beginning of the next growing season. Should excessive growth occur on any lot, the owner shall be notified by the Committee, in writing, of such condition and shall be given thirty (30) days to correct the same, after which time the Committee may order such correction affected, the expense of which shall be charged to the owner of the lot or lots. Homeowners are responsible for the maintenance of the park strip between the curb and the sidewalk. The park strip is to have grass ground covering and shall have a minimum of 1 little leaf linden tree installed where a park strip exists in front of a home. Lots 1 and 10 shall have 3 little leaf linden trees installed on the park strip that runs along Monson St. No other bushes, trees or plants aside from those described herein shall be installed in the park strip.

Section 7.8. Fences, Walls and Barriers. Walls, fences and other barriers shall be constructed of materials manufactured for such purposes and erected in a proper and safe manner. No fencing shall be installed in the front setback area of a structure, except on the street side of corner lots abutting the entrance to the development. Vinyl or Decorative Concrete fencing shall be used throughout the development. All walls, fences and barriers shall be kept and maintained in a visually pleasing manner and in a state of good repair. No wire netting, chicken wire, barbed wire, or chain link fences will be allowed.

7.8.1. Perimeter Fence/Wall. The owners of all lots have an Exterior Perimeter Fence/Wall for their use. In the event that this fence/wall is damaged or destroyed through the act of an Owner or any of the Owner's agents or guests (whether or not such act is negligent or otherwise culpable), it shall be the obligations of such owner to rebuild and repair the Fence/Wall without cost to other lot owners. Notwithstanding anything to the contrary herein contained, there shall be no impairment of the structural integrity of the Fence/Wall without the prior consent of all owners of any interest therein, whether by way of easement or in fee. In the event of a dispute between owners with respect to the construction, repair or rebuilding of the Perimeter

Fence/Wall, or with respect to the sharing of the costs thereof, such owners shall submit the dispute to the Board, the decision of which shall be binding.

Section 7.9. Sight Distance at Intersections. No fence, wall, hedge, or shrub which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner lot within a triangle formed by the street property lines and a line connecting them at points forty (40) feet from the intersection of the street property lines extended. The same sight line limitations shall apply on a driveway or alley. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 7.10. Slope and Drainage Control. No structure, planting or material shall be placed or permitted to remain and no activities shall be undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels. No change in the elevation of a lot shall be made and no change in the condition of the soil or level of the land of a lot shall be made which results in any permanent change in the flow and drainage of surface water which is detrimental to any other lot within the Property unless a drainage easement exists for such alteration. Construction of improvements and installation of landscaping shall be done in such a way that drainage water is retained on the lot and/or conveyed to appropriate drainage facilities and as not to detrimentally drain onto or across any other lot except for within the established drainage easements that run along each adjoining property line. The slope control areas of each lot and all improvements in them shall be maintained continuously by the Owner of the lot, except for those improvements for which a public authority or utility company is responsible. For those lots with a side slope, it will be the responsibility of the party that alters the existing grade, being the grade at the time of acceptance of the development by the City of Pocatello, to insure the existing grade of any adjoining lots by means, if necessary, of a retaining wall, erosion resistant landscaping or other decorative structure on his/her property and provide means for lot drainage to flow according to the drainage plan.

Section 7.11. Sewage Disposal. No individual sewage disposal system shall be permitted on any lot, part or portion of the Property.

Section 7.12. Building Location. All buildings shall be located on all lots so as to comply with any requirements noted on the Plat and so as not to be in violation of Pocatello City ordinances with respect to minimum setbacks. The above notwithstanding, in no event shall any portion of any building including eaves or steps, encroach upon any other lot. All construction shall be made only within designated and approved building pads.

Section 7.13. Prohibited Structures. No basement home, mobile home, or pre-manufactured home shall be placed, located or constructed on any lot. No structure of a temporary character, trailer, mobile home, basement with no upper structure, pre-manufactured home, tent, shack, garage, barn or any outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently. The storage of one (1) camper trailer belonging to the lot Owner shall be allowed provided such storage is confined to the rear yard area, side yard area or garage, is behind a fenced area screening it from street view, and is not occupied in any fashion or manner.

Section 7.14. Signs. Street and neighborhood signs shall be installed as per the master plan narrative. For residential homes and except as otherwise provided herein, no individual signs of any kind shall be displayed to the public view on any lot except one sign of not more

than one square foot for identification (numbering) purposes. One sign of not more than six (6) square feet on each side may be used for advertising the lot for sale or rent or identifying the home during construction. Any sign used for advertising the lot or home thereon for sale or rent, or for identifying the home during construction, shall be of the style, size, color and design, and shall strictly conform in all respects with this section. Banners, flags or streamers may be used for a period of no more than 30 days continuously and may not be replaced until 30 days have past without banners, flags or streamers on the property. The above notwithstanding, signs used by the Declarant to advertise the development and/or initial sale of any lot, part or portion of the Property shall be excluded from this restriction.

Section 7.15. Care and Maintenance. Without limiting any other provision of this Declaration, each Owner shall maintain and keep such Owner's lot at all times in a safe, sound and sanitary condition and refrain from any activity which might interfere with the reasonable enjoyment by other Owners of their respective lots. All structures, landscaping and improvements shall be maintained in good condition and repair at all times.

Section 7.16. Nuisances. No noxious or offensive activity shall be carried on, or be allowed to be carried on, upon any lot, part or portion of the Property, nor shall anything be done thereon which may become an annoyance to the neighborhood. This includes dogs or any other animals that are not kept within the boundaries of the owner's properties. No lot shall be used for any illegal purpose.

Section 7.17. Animals, Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, part or portion of the Property, except that dogs, cats or other domesticated household pets, not exceeding two (2) of each, may be kept in a residence constructed on a lot, or on the lot in a suitable enclosure, provided that they are not kept on any lot so as to be visible from other lots or residences, and are not kept, bred or maintained for any commercial purpose. Such animals as are permitted shall be strictly controlled and kept pursuant to all applicable laws, ordinances, rules and regulations. Pets shall not be kept if they create noise or odors that, in the opinion of the Committee, constitutes a nuisance. Lot owners may make application for exceptions to this restriction to the Board.

Section 7.18. Garbage and Refuse Disposal. No lot, part or portion of the Property shall be used or maintained as a dumping ground for rubbish, rubble, trash, garbage, or other waste. All trash, garbage, rubbish, rubble, or other waste shall be kept in sanitary containers which are emptied on at least a weekly basis. No unsightly materials or other objects are to be stored on any lot in view of the general public or neighboring lot owners. No rubbish, trash, papers, junk, or debris shall be burned upon any lot, part or portion of the Property.

Section 7.19. Storage of Materials. No lot, part or portion of the Property shall be used or maintained as storage for building materials except during construction of improvements on the lot. Once a dwelling is occupied or made available for sale, all building materials shall be removed or stored inside such dwelling.

Section 7.20. Inoperable Vehicles. No type of motor vehicle which is inoperable for any reason shall be permitted to be parked upon any street, lot, or part or portion of the Property, except in an approved, enclosed garage. In the event any inoperable motor vehicle remains outside upon any street, lot, or part or portion of the Property for a period exceeding thirty (30) days, the same may be removed after ten (10) days written notice to the lot and vehicle owner. The cost and expense of such removal shall be borne by the lot owner and vehicle owner. As used in this section, "inoperable vehicle" shall mean any motor vehicle which is unable to be legally

operated in a normal manner upon the streets under its own power, or is unlicensed or unregistered for a period of ninety (90) days or more. No automobile, recreational vehicle, commercial vehicle, other motorized vehicle, or any portion thereof, shall be dismantled, rebuilt, serviced, repaired or repainted on or in front of any lot unless performed within a completely enclosed garage or other permitted structure located on the lot which screens the sight and sound of such activity from the public streets and neighboring lots.

Section 7.21. Boats, Recreational, Trucks, Trailers and Other Vehicles. No boats, motorcycles, trailers, buses, motor homes, campers or other such vehicles shall be parked or stored upon any lot except within an enclosed or screened area. In no event shall any such vehicles be parked on the driveway or in the front yard area of any lot or on any street located within the Property except for a limited time frame of 48 hours while loading and unloading. All such vehicles shall be properly registered and licensed, or meet such other governmental approval as may be required. Trailers and motor homes with a length in excess of fifty (50) feet and trucks of a gross vehicle weight over ten thousand (10,000) pounds are not allowed to be placed, parked, or stored upon any street, lot, or part or portion of the Property. All trailers and recreational vehicles must be placed within an enclosed garage or behind a privacy fence or wall.

Section 7.22. Antennas. No external radio, television, dish or other antenna of any kind or nature, or device for the reception or transmission of radio, microwaves or other similar signals shall be constructed or maintained on any lot or residence in such a manner as to extend above the height of the residence on the lot nor shall such devices be located on any lot or on any residence on any lot so as to be located on the front street section of the house.

Section 7.23. Oil and Mining Operations. No drilling, quarrying or mining operations of any kind shall be permitted upon, in or under any lot or part or portion of the Property, nor shall any oil or gas well, tank, tunnel, mineral excavation or shaft be permitted upon, in or under such lot or part or portion of the Property. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot or part or portion of the Property.

Section 7.24. Re-Development or Combining of Lots. No lot within the Property shall be divided, subdivided, partitioned, parceled or broken up into smaller lots or units. In the event any person desires to combine two or more lots, either by use or plat amendment, approval shall first be obtained from the Committee. The responsibility to comply with all legal requirements and pay all costs associated with such combination shall be borne exclusively by the person desiring such combination of lots.

Section 7.25. Damages. Any damage inflicted upon existing improvements such as curbs, gutters, streets, sidewalks and such, by the purchaser or owner of any lot and/or their agents or builders, must be repaired as soon as possible after such damage is discovered, and the expense of such repair shall be borne by the lot purchaser or Owner.

Section 7.26. Code Compliance. Declarant and Owners are subject to, and shall abide by all federal, state and local regulations regarding the use and development of property, regardless of the provisions of this Declaration.

Section 7.27 Improvements and Alterations. No improvement, alteration, repair, excavation or other work which in any way alters the exterior appearance of any lot or the improvements located thereon from its natural or improved state as existing on the date of this

declaration and no building, fence, wall, residence or other structure shall be commenced, erected, maintained, improved, altered, made or done without the prior written approval of the Board for the purpose desired. Pursuant to its rule making power, the Board shall establish a procedure for the preparation, submission and determination of applications for any such alteration or improvement. The Board shall have the right to refuse to approve any plan, specification or grading plan, which is not suitable or desirable, in its opinion, for aesthetic or other reason and in so passing upon such plan, specification or grading plan, and without limitation on the foregoing, it shall have the right to take into consideration the structure, and the materials of which it is to be built, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings, and on the outlook from the adjacent or neighboring property. All subsequent additions to or change of alterations in any building, fence, wall or other structure, including exterior color scheme, shall be subject to the prior approval of the Board. No changes or deviations in or from such plans and specifications, once approved, shall be made without the prior written approval of the Board. All decisions of the Board shall be final, and no lot owner or other party shall have recourse against the board for its refusal to approve any such plans and specifications or plot plan, including lawn area and landscaping.

ARTICLE 8 – PARTY WALL, FENCE AND ROOF

Section 8.1. Maintenance. The cost of maintaining each Party Wall, Fence and Roof shall be borne equally by the owners of the lots on either side of said Party Wall or Party Fence. Each owner shall maintain the roof over his dwelling unit in good condition and in such manner so as not to damage other portion of the building. Each owner shall share equally in the costs to repair or maintain the roof over the Party Wall or Party Fence due to normal wear or physical damage. If a roofline is joined and both roofs must be replaced, replacement will be coordinated between the owners.

Section 8.2. Damage. In the event of damage or destruction to any Party Wall, Party Fence, shared slab, or shared roof if the roofline is joined ("Common Structure" herein) from any cause, other than the negligence of either party hereto, the owners of the lots on either side of said Common Structure shall repair or rebuild said Common Structure. The cost of such repair or rebuilding shall be borne equally by the owners whose lots adjoin said Common Structure. Each such owner shall have the right to the full use of said Common Structure so repaired or rebuilt. If either owner's negligence shall cause damage to or destruction of said Common Structure, such negligent party shall bear the entire cost of repair or reconstruction. If either party shall neglect or refuse to pay his share, or all of such costs in case of negligence, the other party may have such Common Structure repaired or restored and shall be entitled to have a mechanic's lien on the lot and dwelling unit of the party so failing to pay, for the amount of such defaulting party's share of the repair or replacement costs together with interest at the maximum rate allowable. The party having such Common Structure repaired shall, in addition to the mechanic's lien, be entitled to recover attorney's fees and shall be entitled to all other remedies provided herein or by law. The mechanic's lien granted herein is effective only if filed in the Real Property Records of the County where the Property is located, by affidavit declaring under oath the claim of the mechanic's lien.

ARTICLE 9 - GENERAL PROVISIONS

Section 9.1. Enforcement. The Association, the Declarant or 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, or any rule of the Association, including but not limited to any proceeding at law or in equity against

any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants. Failure of the Association or of any Owner to enforce any covenant or restriction herein contained or any rule of the Association shall in no event be deemed a waiver of the right of the Association or any Owner to do so thereafter. In the event action, with or without suit, is undertaken to enforce any provision hereof or any rule of the Association, the party against whom enforcement is sought shall pay to the Association or enforcing Owner a reasonable attorney's fee. The Directors may levy a fine or penalty not to exceed fifty percent (50%) of the amount of the maximum annual assessment against any Owner who fails to refrain from violation of these covenants or a rule of the Association, after three (3) days written notice, and opportunity for hearing.

Section 9.2. Declarant Immunity. By purchasing property within the Development, and unless otherwise stated in writing through a specific written warranty, the lot purchaser and Owner assumes any and all risk of damage and personal injury and waives any and all known or unknown claims of whatever nature against the Declarant or its agents, employees, officers, representatives, successors and assigns with regard to the property purchased. Such waiver specifically includes, but is not limited to, any claims, damages, expense or loss caused by or related to any unforeseen surface or subsurface soil condition, soil compaction or lack thereof, rock falls, rock, block or other walls, or any other condition that may be associated with, or directly or indirectly related to, the purchase of such property or defects in design, construction, installation or management of improvements on such property.

Section 9.3. Severability. All of the conditions, covenants and reservations contained in this Declaration shall be construed together, but if any one of said conditions, covenants, or reservations, or any part thereof, shall at any time be held invalid, or for any reason become unenforceable, no other condition, covenant, or reservation, or any part thereof, shall be thereby affected or impaired, and the Declarant, Association and Owners, their successors, heirs and assigns shall be bound by each article, section, subsection, paragraph, sentence, clause and phrase of this Declaration, irrespective of the invalidity or unenforceability of any other article, section, subsection, paragraph, sentence, clause or phrase.

Section 9.4. Duration. The covenants and restrictions of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by the Association, or the Owner of any lot subject to this Declaration, and by their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years.

Section 9.5. Amendment. After the occurrence of one of the events set forth in Section 6.1 which terminates the Declarant's right to appoint and remove members of the Committee, this Declaration may be amended by a written document signed by the Owners of two-thirds (2/3) of all lots in the Development. Until such time as one of the events set forth in Section 6.1 occurs which terminates the Declarant's right to appoint and remove members of the Committee, the Declarant is vested with the right to unilaterally amend this Declaration as may be reasonably necessary or desirable in the sole discretion of the Declarant.

Section 9.6. Declarant Exemption. The Declarant and all activities carried on by the Declarant in connection with the Development, development, sale, or related activity, with regard to the Property or any lot, is exempt and free from all restrictions and constraints in this Declaration.

Section 9.7. Violation as Nuisance. Every act or omission whereby any restriction, covenant or condition in this Declaration is violated in whole or in part, is declared to be and shall constitute a nuisance, and may be abated by appropriate legal action by the Declarant or any Owner or Owners of any lot or portion of the Property. Remedies under this Declaration shall be deemed cumulative and not exclusive.

Section 9.8. Enforcement. Each and all of the restrictions, covenants and conditions contained in this Declaration are for the benefit of the Declarant and the Owner or Owners of any lot or portion of the Property. Each restriction, covenant and condition shall inure to the benefit of and pass with each and every lot or portion of the Property and shall apply to and be binding upon each and every successor in interest thereto. The restrictions, covenants and conditions are and shall be deemed covenants of equitable servitude, and the actual or threatened breach thereof, or the continuance of any such breach, or non-compliance therewith, may be enforced, enjoined, abated, or remedied by appropriate proceedings at law or in equity by the Declarant or the Owner or Owners of any lot or portion of the Property; provided, however, that no such breach shall affect or impair the lien of any bona fide mortgage or trust deed which shall have been given in good faith and for value, except that any subsequent Owner of such lot or portion of the Property shall be bound and obligated by this Declaration, whether such ownership is obtained by foreclosure, at a trustee's sale, or otherwise. Failure by the Declarant or any Owner or Owners of any lot or portion of the Property, or their respective legal representatives, heirs, successors, or assigns, to enforce any of the provisions of this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

Section 9.9. Attorney Fees and Costs. In the event enforcement hereof is required against any person or entity, the prevailing party to such action shall be entitled to recover all costs and attorney fees so incurred, whether or not suit is filed, and at trial or on appeal.

Section 9.10. Notices. Any notice required to be sent under the provisions of this Declaration shall be deemed to have been properly sent when deposited in the U.S. Mail, postpaid, to the last known address of the person who is entitled to receive it. Such notices shall be deemed received upon actual receipt or five (5) days after mailing, whichever is sooner.

Section 9.11. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section 9.12. Waivers. No provision contained in the Declaration shall be deemed to have been waived by reason of any failure to enforce it, irrespective of the number of violations which may occur.

Section 9.13. Topical Headings. The topical headings contained in this Declaration are for convenience only and do not define, limit or construe the contents of the Declaration.

ARTICLE 10 - ASSIGNMENT OF POWERS

Any and all rights and powers of Declarant herein contained may be delegated, transferred or assigned in the Declarant's sole discretion.

