

**DECLARATIONS OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
WATER FRONT ESTATES**

This Declaration of Covenants, Conditions and Restrictions ("Declaration") is made to be effective the 29 day of February, 2008, by Jerry Parker, Kris Parker, Cyndee Parker and Kristi Parker ("Declarants").

WHEREAS, Declarants are the owners of certain real property in Jefferson County, Idaho known as Water Front Estates Subdivision, more particularly described as all that real property shown and described as Exhibit A attached hereto and made a part hereof as thought set forth in full herein (hereinafter referred to as the "Subject Property");

WHEREAS, Declarants desire to provide for the preservation of the desirability and attractiveness of the Subject Property and any real property which may be annexed thereto pursuant to this Declaration, through the covenants, conditions, restrictions and provisions as hereinafter set forth;

WHEREAS, Declarants desire to subject the Subject Property to preserve scenic and recreational values on Subject Property;

NOW, THEREFORE, the Declarants hereby declare that the Subject Property and any real property which may be annexed thereto pursuant to the provisions of the Declaration, shall be held, conveyed, divided, encumbered, hypothecated, bonded, rented, used, occupied and improved in accordance with the subject to the following provisions, covenants, conditions and restrictions (hereinafter sometimes collectively referred to as "Covenants"), all of which are for the purpose of enhancing and protecting the character, values, desirability and attractiveness of said real property. The Covenants shall run with said real property and shall be binding on all parties having or acquiring any right, title or interest in said real property, or any part thereof, their heirs, personal representatives, successors and assigns and shall inure to the benefit of the Declarants and each Owner (as hereinafter defined) or person or entity deriving rights from an Owner. Any conveyance, transfer, sale assignment, lease or sublease of said real property will be and hereby is deemed to incorporate by reference the provisions of this Declaration and the Covenants herein contained.

**ARTICLE I**

**Definitions**

As used herein, the following terms shall be defined as in this Article provided:

**Section 1. Articles.** The term "Articles" shall mean Articles of Incorporation of the Association, as the same may from time to time be amended.

Microfilm No. 369369  
6-26-08  
At 10:10 O'clock A M  
CHRISTINE BOULTER  
Jefferson Co. Recorder  
Fee \$ 81. Deputy  
Recorded at Request of Thompson Eng.

**Section 2. Assessment.** The term "Assessment" shall mean and refer to any Assessment duly made and levied pursuant to Article VIII hereof.

**Section 3. Association.** The term "Association" shall mean and refer to the Water Front Estates Homeowners Association formed and incorporated to be and constitute the Association to which reference is made in this Declaration and its successors and assigns, whether by way of merger, consolidation, transfer or otherwise. The Association shall include, when the context requires, its Board of Directors, Officers and duly authorized representatives and agents as the same, or any of them, may from time to time be constituted.

**Section 4. Board.** The term "Board" shall mean and refer to the Board of Directors of the Association, as the same may from time to time be amended.

**Section 5. Bylaws.** The term "Bylaws" shall mean and refer to the duly adopted laws of the Association, as the same may from time to time be amended.

**Section 6. Common Area.** The term "Common Area" shall mean and refer to all real property, if any, which has been or is hereafter conveyed in fee to the Association together with all improvements existing or from time to time constructed thereon.

**Section 7. Covenants.** The term "Covenants" shall refer to this Declaration of Covenants, Conditions and Restrictions or the Supplemental Declarations.

**Section 8. Declarants.** The term "Declarants" shall mean and refer to Jerry Parker, Kris Parker, Cyndee Parker, and Kristi Parker, their successors and assigns, under an instrument specifically designating such successor or assign as a successor or assign under this Declaration.

**Section 9. Design Committee.** The term "Design Committee" shall mean and refer to the committee created pursuant to Article III hereof.

**Section 10. Design Committee Criteria.** The term "Design Committee Criteria" shall mean and refer to the criteria adopted by the Design Committee pursuant to Article IV, Section 4, hereof.

**Section 11. Excavation.** The term "Excavation" shall mean and refer to any disturbance of the land (except to the extent reasonable necessary for planting) which results in the removal of earth, rock, trees or other substances from a depth of more than twelve (12) inches below the natural surface of such land.

**Section 12. Fill.** The term "Fill" shall mean and refer to any addition of rock or earth materials to the surface of the land which increases the natural elevation of such surface by more than twelve (12) inches.

**Section 13. Improvements.** The term "Improvements" shall include but not be limited to any buildings, roads, driveways, parking areas, fences, bridges, retaining walls, stairs, decks, hedges, windbreaks, patios, poles, signs and any other structures of type or kind.

**Section 14. Lot.** The term "Lot" shall mean and refer to any parcel of real property comprising a part of the Subject Project shown on a recorded plat or map, or otherwise described in a recorded instrument, which is clearly identified as an individual lot to be used as a building site.

**Section 15. Member.** The term "Member" shall mean and refer to every person or entity who holds membership in the Association.

**Section 16. Mortgage.** The term "Mortgage" shall mean and refer to any security device encumbering all or any portion of the Subject Property and as used herein the term "Mortgage" shall include a Deed of Trust.

**Section 17. Mortgagee.** The term "Mortgagee" shall mean and refer to the record owner of a beneficial interest under a Mortgage.

**Section 18. Owner.** The term "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to a Lot, including contract sellers, but excluding those having an interest in the Subject Property merely as security for the performance of an obligation.

**Section 19. Perimeter Fences.** The term "Perimeter Fences" shall mean and refer to the fences and other forms of dividers constructed by Declarants along any or all of the borders of the Subject Property or Common Area in accordance with a fencing plan approved by the Design Committee.

**Section 20. Pond Easement Area.** The term "Pond Easement Area" shall mean and refer to that area designated on the Water Front Estates Subdivision plat map, and shall be for the use and enjoyment of the Members of the Association and the Declarants. Such area may be used for fishing, non-motorized boating, wading, swimming and similar activities. Hunting, camping and fires are prohibited. The Board will control the use of the Pond easement area and shall have the right to promulgate new regulations and modify existing regulations. The Board shall have the right to discontinue use of such area from time to time. The use of the Pond easement area shall be regulated by the Board in a manner that protects the privacy, peace and quiet of the surrounding Lot Owners, but that allows reasonable use of the pond for the recreations and enjoyment of every Member. Lot owners and their guests do not have access to the pond for any other purpose without written consent of the owner of the lot on which the pond exists. Any owners purchasing a lot acknowledge that they are thereby releasing Declarants from any and all liability for any mishap which might occur in relation to the pond and the use of the water therein. The lot owners, by purchasing a lot, hereby acknowledge that they are solely responsible for the safety of their guests and family, property and animals in relation to the pond. Lot owners acknowledge that there are inherent dangers relating to

ponds. Further, the lot owners are accepting any and all liability occasioned by any guest of theirs and indemnify the Declarants there from. Declarants do specifically reserve the right to allow additionally fire fighting use of the pond for areas other than this subdivision.

**Section 21. Record/Recorded.** The term "Record" or "Recorded" shall mean, with respect to any document, that said documents shall have been recorded in the Office of the County Clerk of Teton County, State of Idaho.

**Section 22. Residence.** The term "Residence" shall mean a residence structure, but does not include such other improvements and structures as may be customarily incident thereto, on a Lot.

**Section 23. Road.** The term "Road" shall mean and refer to any graded and improved vehicular way now or hereafter located or constructed within or upon a portion of the Subject Property or the Common Area and designated as a private roadway on any recorded plat or map, or described in a recorded instrument, and shall include roads, drives, lanes, courts, circles and places, all of which shall be dedicated to the Association for repair and maintenance responsibility.

**Section 24. Structure.** The term "Structure" shall mean and refer to anything constructed or erected on real property, the use of which requires location on the ground or attachment to something having location on the ground.

## ARTICLE II

### Provisions Applicable to Particular Land Classifications

**Section 1. Lot Restrictions.** Each lot shall be used exclusively for dwelling purposes and such purposes as are customarily incident thereto, including the leasing thereof. Furthermore, unless otherwise specified on a recorded plat or map, or in a Supplemental Declaration covering the lot, the following shall apply to each lot:

- (a) **Improvement.** Not more than one residence shall be constructed on any lot. A detached guest house, garage facilities and associated outbuildings, not to exceed a total of three (3) structures, may be permitted if of similar design character to the Residence, with exception to set backs.
- (b) **Construction.** Unless otherwise expressly approved in writing by the Design Committee, no used Structure or Improvement constructed or erected upon other Real property shall be moved from another location to any Lot, and all construction on any Lot shall be first approved by the Design Committee, with new materials and shall be prosecuted diligently and continuously from the commencement thereof until completion. All siding and roofing materials shall be earth tones. Roofing shall be of non-glare materials. No galvanized products may be used. At least fifteen percent (15%) of the exterior shall be

rock architectural siding, Hardi-Board or Brick. Stucco or imitation rock is allowed. Wood siding will compliment the residential design. All structures within Water Front Estates Subdivision shall be in harmony with each other.

- (c) **Detached Structures.** Not Structure or above-ground improvements shall be permitted on any Lot which are detached or separated from the principal Residence unless located within the building envelope and unless designated as a single visual element, connected or related visually over 6,000 with the principal residence approved by Design Committee, fencing or other or other architectural features.
- (d) **Parking.** No residence shall be constructed on a lot unless provision is made on that lot for not less than three enclosed garage stalls and two guest parking spaces and constructed and located in such a manner as shall be approved by the Design Committee.
- (e) **Minimum Floor Area.** The Residence shall have a minimum living floor area of sixteen hundred (1,600) square feet, exclusive of garages, porches, patios and accessory structures.
- (f) **Height Limits.** No Residence and no other structure or above-ground improvement on a Lot shall exceed a height of forty (40) feet, measurement to be in the manner provided for in the rules from time to time adopted by the Design Committee or the Association. Building heights shall not violate Jefferson County, Idaho height limitations.
- (g) **Building Envelopes.** Building envelopes for each Lot are designated on a map held and maintained by the Design Committee. No structure may be constructed or placed outside of the specified building envelope. Building envelopes shall meet Jefferson County, Idaho setback requirements.
- (h) **Grading and Landscaping.** No on-site excavation or fill shall be allowed until approved in writing by the Design Committee. All landscaping shall be completed as quickly as possible and within 12 months of the completion of each structure. Landscape plan shall be submitted and approved with architectural plan.
- (i) **Subdivision.** No Lot may be split or subdivided. Notwithstanding the foregoing, Owners of adjoining Lots may, with the prior written approval of the Design Committee, sell, lease or purchase adjoining property in any manner permitted by law to accomplish relocation to the boundary line between such Lots if such sale and purchase will not cause or result in a violation of any setback, building or other applicable law. In such cases, the new boundary line thus established shall be deemed the new boundary line between the respective Lots but no setback lines, easements or land uses for

such properties with respect to the former boundary line or otherwise shall be changed or shifted by reason of the change of said boundary line.

- (j) **Combining Lots.** Provided that the Owner elects to do so in writing and duly records same in the Office of the County Clerk, Jefferson County, Idaho two or more adjoining lots owned by a single Owner may be combined and developed as one Lot but shall thereafter be deemed as a Lot, and may not thereafter be split and developed separately.
- (k) **Commercial Lodging.** Unless otherwise specifically permitted by any supplemental declaration thereto, no Lot shall be used for either commercial, non-residential purposes or for residential purposes which entail charging lodging or similar-type fees for periods of less than one (1) week's stay.
- (l) **Maintenance.** Each Owner shall keep all Lots and the exteriors of improvements thereon and the exteriors, landscaping and surrounding areas of all structures in good order and repair, and in a clean, safe, attractive and sightly condition and free of any and all fire hazard.
- (m) **No Temporary Structures.** No structures of a temporary character, mobile homes, trailers, tents, teepees, shacks, garages, barns or other outbuildings shall be used on any Lot as a Residence either temporarily or permanently, and all temporary structures on any Lot during construction must be promptly approved by the Design Committee and must be removed when construction is completed; provided, however, that the provisions of this subparagraph shall not apply to temporary construction shelters used exclusively in connection with the construction of the main structure or the guest house, which guest house may be constructed in advance of the primary Residence and occupied for no more than one (1) year prior to the completion of the primary Residence.
- (n) **Drainage.** The established drainage pattern from, on or over any Lot shall not be obstructed, altered or in any way modified, unless previous written consent is obtained from the Design Committee.
- (o) **Excavation and Mining.** No excavation of stone, sand, gravel or earth shall be made on any Lot, except for such excavation as may be necessary in the connection with the erection of an approved improvement thereon. No oil drilling, oil development operation, quarrying or mining operations of any kind shall be permitted on any Lot.
- (p) **Livestock and/or Pets.** No livestock or pets shall be kept or maintained on any Lot except as provided herein:
  - 1. No more than either two (2) dogs or two (2) cats may be maintained on any Lot. If an Owner chooses to keep house pets,

said Owner shall at all times have them under his/her control, whether within the Owner's Lot or in any other location within the property. Dogs shall at all times be restrained in a dog run when outside, or leashed. Animals shall not be permitted to roam at will and at the option of the Declarants, the Design Committee or the Association, steps may be taken to control any animals not under immediate control of their owners, including the right to impound animals not under such control and charge a substantial fee to their owner for their return. The Declarants, the Design Committee and the Association shall have the right to adopt further rules and regulations to enforce this provision, and may require an Owner to construct a dog kennel.

2. No horse with be allowed in Water Front Estates, with the exception for Lots 10,11, and 12 may have a total of (2) horses, and Lot 1 may have a total of six (6) horses.

- (q) **Noxious Weeds.** Noxious weeds are to be kept under control at all times at the expense of the Owner, and Lots should not be left in an uncared-for condition. In the event that a Lot Owner fails to comply with weed control, either the Owners or the Water Front Estates Homeowners Association, whichever is applicable, shall commence to eliminate the weeds from the infested Lot. A \$300.00 penalty will be assessed to the Lot and a lien recorded in the Office of the Recorder of Jefferson County, Idaho, to collect the penalty and the cost of the weed eradication if the Lot Owner does not reimburse said weed control costs.
- (r) **Wildlife Protection.** No activity shall be allowed on any Lot which disturbs or harasses wildlife. No hunting shall be allowed on any Lot.
- (s) **Snowmobiles, Motorcycles and ATVs.** In no way shall these vehicles be used in such a manner as to infringe on the rights of others within the Subdivision. It is the right of the Committee to review and adjust this rule as problems arise.
- (t) **Unsightliness.** No unsightliness shall be permitted on any Lot or on the exterior or other portions of a Residence visible from elsewhere on the subject property, common area or any adjacent property. Without limiting the generality of the foregoing:
  - 1. All unsightly structures, facilities, equipment, objects and conditions shall be enclosed within an approved structure or appropriately screened from view.
  - 2. One Trailer, mobile home, truck, boat, tractors, vehicles, ATVs, Snowmobiles, automobiles, campers whether or not on a truck, snow removal equipment and garden or maintenance equipment

shall be kept at all times within an enclosed structure, except when in actual use.

3. Refuse, garbage and trash shall be kept at all times in a covered, noiseless container and any such container shall be kept within an enclosed structure or appropriately screened from view.
4. Service areas, storage piles, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view.
5. Pipes for water, gas, sewer, drainage or other purposes and wires, poles, antennae and other facilities for the transmission or reception of audio or visual signals or electricity and utility meters or other utility facilities and gas, oil, water, propane or other tanks and sewage disposal systems or devices shall be kept and maintained within an enclosed structure or below the surface or below the surface of the ground.
6. No lumber, grass, shrub or tree clippings or plant waste, metals, bulk materials or scrap or refuse or trash shall be kept, stored or allowed to accumulate.
7. All rubbish, trash and garbage shall be regularly removed from each Lot and shall not be allowed to accumulate thereon. Notwithstanding the foregoing, if at the time of the occupancy of any approved structure, connections to a nearby underground line or cables, which in all events shall be within 120 days unless said period is extended by the Design Committee. As of the effective date of the Covenants, a connection to a nearby television cable is not available. An Owner may install an antenna inside a residence or structure. A small satellite dish may be installed in a location approved by the Design Committee. The Design Committee may require an Owner plant trees or shrubs to screen the small satellite dish if it is visible from any adjacent property, and the Design Committee may require a new Residence or structure to loop up to the television cable rather than install a new small satellite dish that may be visible to an adjacent Lot or property.

- (u) **No Noxious or Offensive Activity.** No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done, made or suffered or placed thereon which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others. Without limiting any of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices, except security



devices used exclusively to protect the security of any Lot, shall be placed thereon.

- (v) **No Annoying Lights, Sounds or Odors.** No light shall be emitted from any Lot, Residence or structure which is unreasonable bright or causes unreasonable glare. This includes, without limitation, lights such as sodium or mercury vapor lights. No light bulb should be visible from a location off the Lot. No sound shall be emitted on any Lot which is unreasonably loud or annoying, and no odor shall be emitted on any Lot which is noxious or offensive to others. Downward directed, low wattage, dark-sky lighting is required for all Lots. All external lighting shall comply with Jefferson County Subdivision Ordinance.
- (w) **No Hazardous Activities.** No activities shall be done, made, suffered or conducted on any Lot and no Improvements may be constructed thereon which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks shall be discharged upon any Lot, and no open fires shall be lighted or permitted on any Lot except in a contained unit while attended and in use, or within a safe and well designed interior fireplace, or as otherwise specifically scheduled or approved by the Board.
- (x) **Fences.** All fences will be approved by the Design Committee prior to installation.
- (y) **Signs.** No advertising signs or devices of any nature shall be erected or maintained on any Lot. Signs that are necessary to identify the ownership of a Lot and its address, not more than one "Fore Sale" or "For Rent" sign having a maximum face area of three square feet per Lot, necessary to give direction, advise of rules and regulations, or caution or ward of danger, and required by law, are allowed. Any and all signs on individual Lots shall be of attractive design and in keeping with the scenic and rustic nature of the area. Any signs considered to be offensive shall be brought to the attention of the Design Committee for resolution.
- (z) **Residential Area Uses, Restrictions and Home Occupation.** Each Residential Lot shall be used exclusively for Residential purposes, and no more than one family (including its servants and transient guests) shall occupy such Residence; provided, however, that nothing in this subparagraph shall be deemed to prevent:
  1. Construction of guest houses in accordance with the Covenants.
  2. Any artist, artisan or craftsman from pursuing his artistic calling in the Residence owned by such artisan if such artist, artisan or craftsman also uses such Residence for residential purposes, is

self-employed and has no employees working on such Lot or in such Residence and does not advertise any product or work of art for sale to the public upon such Lot or Residence.

3. The leasing of any Lot from time to time by the Owner thereof, subject however, to all of the restrictions as may be adopted from time to time by the Association or the Board.
4. Residences are not allowed to be rented, loaned or occupied by non-Owners, with the exception of family.
5. A home occupation that meets the following standards:
  - (i) A home occupation shall be operated only by a person residing within the Residence.
  - (ii) Uses permitted are professional services such as an accountant, physician, and real estate agent, tutoring for no more than two students at one time, and counseling primarily for individual persons.
  - (iii) All parking shall be provided on site and shall be located in a location that is visually unobtrusive.
  - (iv) No more than 25% of the habitable floor area of the Residence shall be occupied by the home occupation.
  - (v) There shall be no window display or other public display of material or merchandise connected with the home occupation. Only one sign, not to exceed two square feet in area and attached to the Residence shall be permitted.

**Section 2. Roads.** Roads shall be used for roadway and street purposes subject to the rules and regulations of the Design Committee and the Association and shall be maintained to Jefferson County, Idaho standards by the Association as hereinafter provided.

### ARTICLE III

#### Design Committee

**Section 1. Members.** The Design Committee shall consist of the three (3) members of the Board of Directors. A member of the Board may elect not to act as a member of the Design Committee, in which case the Board will elect an alternate member of the Design Committee. An alternate member of the Design Committee may be removed upon notice by, and shall serve at the pleasure of, the Board. All members of the Design Committee shall be indemnified and held harmless by the Association from liability, damage and expense from any decision or action they may make while acting within the scope and course of their duties.

**Section 2. Term.** Each of the persons designated as an alternate member of the Design Committee shall serve until such time as he/she has resigned by giving written notice of his/her resignation to the Board, or until he/she has been removed or his/her successor has been appointed.

**Section 3. Duties.** It shall be the duty of the Design Committee to consider and act upon all proposed changes on the existing state of property, to formulate Design Committee Criteria, to enforce the applicable Covenants set forth in this Declaration, to cooperate with the Declarants and to perform such other duties as are delegated to it hereunder or under any Supplemental Declaration.

**Section 4. Meeting.** The Design Committee shall meet from time to time as necessary to perform its duties property in such place and according to rules from time to time established by the Design Committee.

**Section 5. Action by Design Committee.** The vote or written consent of any two members shall constitute action of the Design Committee. The Design Committee shall report in writing all approvals and disapprovals of any changes in the existing state of the Subject Property to the Board and the Board shall keep a permanent record of all such reported action.

**Section 6. Limitation and Liability.** Neither the Design Committee nor any member thereof, nor the Declarants or the Association, nor any partner, director, officer, agent or employee of any of the foregoing shall be liable to any party for any action or for an failure to act under or pursuant to or with respect to any provision of this Declaration provided only that the person or entity sought to be charged with any liability shall have acted in good faith. The Design Committee may obtain insurance, if available, to insure the members and the Design Committee against errors and omissions.

**Section 7. Board of Directors.** The Board of Directors shall consist of Jerry Parker and Cyndee Parker. Upon the sale of the first three (3) Lots, an additional board member will be appointed to the Board of Directors of the Homeowners Association. Thereafter, upon the sale of each subsequent Lot, another Board Member will be added until the Board Members total three (3) excluding Jerry Parker and Cyndee Parker.

Any changes to the Water Front Estates final plat or Covenants, Conditions & Restrictions will be upon the recommendation of the Homeowners Association with the final approval being granted by Jerry Parker and Cyndee Parker.

Upon the sale of 75% of the Lots, final approval by Jerry Parker and Cyndee Parker will not be required.

#### ARTICLE IV

#### Required Approval of All Changes

**Section 1. Change in the Existing State of Property.** "change in the Existing State of Property" shall mean and include, without limitation, the construction or reconstruction of any building, structure or other improvement, including utility facilities, the making or creation of any excavation, fill or similar disturbance of the surface of land including, with limitation, change of grade, stream bed, ground level or drainage pattern, the clearing, marring, defacing or damaging of trees, shrubs or other growing things, the landscaping or planting of trees, shrubs, lawns or plants, or any change, alteration or refinishing, including with limitation, any change of color texture or exterior appearance, of any previously approved change in the existing state of the property, insofar as the same shall apply to any lot of subject property, but in no event with respect to any Common Area.

**Section 2. Approval of Change in Existing State Required.** No change in the existing state of property shall be made or permitted, except by Declarants or Trustees, without the prior written approval of the Design Committee and without compliance with this Article IV. The following paragraphs of this Article IV shall not be applicable to any change in the existing state of property undertaken by Declarants, or any duly authorized agent or representative of Declarants.

**Section 3. Design Committee Approval.** The Design Committee shall have complete discretion to approved or disapprove any change in the exiting state of property. The Design Committee shall exercise such discretion with the following objectives in mind: to carry out the general purposes expressed in the Declaration; to prevent violation of any change which would be unsafe or hazardous to any persons or property; to minimize, as in the sole discretion of the Design Committee is reasonable under circumstances, obstruction or diminution of the view of others; to preserve visual continuity of the area and to prevent a marked or unnecessary transition between improved and unimproved areas and any sharp definition of boundaries or property ownership; to assure that any change will be of good and attractive design and in harmony with the rustic and natural beauty; to avoid duplication; to assure that materials and workmanship for all improvements are of high quality comparable to other improvements in the area; and to assure that any change will require as little maintenance as possible so as to assure a better appearing area under all conditions.

**Section 4. Design Committee Criteria.** The Design Committee shall adopt criteria consistent with Section 3 by which it intends to exercise it discretion with regard to approval or disapproval of any change in the existing state of property. The Design Committee Criteria as formulated by the Design Committee from time to time shall be set forth in writing which shall be made available to Owners of Lots.

**Section 5. Conditions Precedent to Approval.** Prior to expenditures of any substantial time or funds in the planning of any proposed change in the exiting state of property, the Owner proposing to make the change shall advise the Design Committee in writing of the general nature of the proposed change; shall, if requested by the Design Committee, meet with a member or members of the Design Committee to discuss the proposed change in the existing state of property; shall read or become familiar with the Design Committee

Criteria formulated by the Design Committee; and shall, if requested by the Design Committee, furnish the Design Committee with preliminary plans and specifications for comment and review. After the nature and scope of a proposed change in existing state of property is determined and prior to the commencement of work to accomplish it, the Design Committee shall be furnished in triplicate by such Owner, with a complete and full description of the proposed change in the existing state of property, in writing and with a plot plan covering the particular Lot drawn to such scale as may be reasonably required by the Design Committee, showing all boundaries, existing and proposed contour lines and elevations at reasonable detailed intervals, improvements, drainage pattern, utility and sanitation facilities, substantial trees or shrubs and setting for the proposed schedule for completion. There shall also be furnished to the Design Committee any and all further information with respect to the proposed change in the existing state of property. If the drainage pattern will be affected by any change in the existing state of property, the Design Committee may require submission of a report on the effect by a qualified engineer or geologist. With respect to all structures, the Design Committee may require submission, in triplicate, of floor plans, elevation drawings, and final working drawings, all drawn to scale as may be reasonable required by the Design Committee; descriptions of exterior materials and colors and samples of the same; and final construction specifications. Where building or structures or other improvements which reasonable require plans and specifications are proposed to be prepared by a practicing licensed architect. No proposed change in the Existing state of property shall be deemed to have been approved by the Design Committee unless its approval is in writing executed by at least two members of the Design Committee; provided that approval shall be deemed given if the Design Committee fails to approve or disapprove a proposed change in the existing state of property or to make additional requirements or request additional information within 21 days after a full and complete description of the proposed change in the existing state of property has been furnished in writing to the Design Committee with a written and specific request for approval.

**Section 6. Prosecution of Work after Approval.** After approval by the Design Committee, any proposed change in the existing state of property shall be accomplished as promptly and diligently as possible and in substantial conformity with the description for the proposed change in the existing state of property and with any plans and specifications thereof given to the Design Committee. Failure to commence the change in the existing state of property within one (1) year after the date of approval or to complete the proposed change in the existing state of property (including completion of the landscaping) substantially in conformity with the description thereof and plans and specifications therefore within a reasonable period of time (not to exceed two (2) years after commencement of construction) shall operate to automatically revoke the approval of the proposed change in the existing state of property and, upon demand by the Design Committee, the Property shall be restored as nearly as possible to its state existing prior to any work in connection with the proposed change in the existing state of property. If an improvement is destroyed (whether totally or partially), the debris shall be removed promptly and the remainder of the improvement shall either be removed within ninety (90) days or restoration commenced within said ninety (90) day period commencing on the date the destruction occurred. The Design Committee and its duly appointed agents

may enter upon a property at any reasonable time or times to inspect the progress or status of any change in the existing state of property being made or which may have been made.

**Section 7. Failure to Comply.** If the Design Committee shall find that any change in the existing state of property shall have been undertaken without the approval of the Design Committee in violation of the provisions of this Article IV, it shall immediately notify the Declarants and the Association, any of which shall have the right to remove any such change in the existing state of property at the sole cost and expense of the Owner or Owners of the Lot. If the Design Committee shall find that a change in the existing state of property was not completed in substantial conformity with the description thereof and any plans and specifications therefore as approved by the Design Committee, the Design Committee shall notify the Owner or Owners of such noncompliance, the Design Committee shall notify the Declarants and the Association, any of which shall have the right, as its option, to remove the Change in the Existing state of property or to remedy the noncompliance, in either case at the sole cost and expense of the Owner or Owners of the Lot.

**Section 8. Certificates and Notices.** Upon request of the Owner, the Design Committee shall record a certificate of completion and compliance upon completion of the Change in Existing state of property after having inspected the Change in the Existing state of property and satisfied itself that the Change in Existing state of property was completed strictly in accordance with the right and authority to record a notice to show that any particular Change in the Existing state of property has not been approved or that any approval given has been automatically revoked as provided in Section 6.

**Section 9. Waiver.** The approval of the Design Committee of the plans and specifications for any change in the existing state of property shall not be deemed to be a waiver by the Design Committee of its rights to object to any of the features or elements embodied in any other plans and specifications for another change in the existing state of property, nor shall such approval be construed as in any manner modifying, altering or waiving any of the Covenants of this Declaration or any Covenant, Conditions, Restrictions or provisions in any Supplemental Declaration.

**Section 10. Presumption of Compliance.** All of the changes in the existing state of property theretofore or hereafter undertaken by the Declarants or his agents or representative on any Lot shall be conclusively presumed in compliance with the provisions of this Article IV.

**Section 11. Association Action.** If any Owner is obligated to pay for or perform some act in accordance with the terms, hereof or with the terms of any by laws or rules promulgated pursuant to these Covenants, and such Owner fails to do so, the Association may cure such failure (but in no event whatsoever shall be obligated to do so) and may recover from the Owner all cost of such cure in addition to any other rights or remedies it may have hereunder. In no event, however, shall the Association or any of its officers,

employees or Committee member be liable in any way for its decision to cure same or not to cure same or for the partial or faulty cure of same.

## ARTICLE V

### Variance

**Section 1. Variances by Design Committee.** The Design Committee may authorize variances from compliance with any of the Covenants contained in this Declaration or any Supplemental Declaration when circumstances arise due to such issues as topography, natural obstructions or hardship; provided, however, that such variances shall be authorized in conformity with the intent and purposed of this Declaration and provided further that in every instance such variance will not be materially detrimental or injurious to the other property covered by this Declaration such variances must be evidenced in writing.

**Section 2. Duties of the Association.** The Association shall, in addition to such obligations, duties and functions as are assigned to it by other provisions of this Declaration and any Supplemental Declarations, have the obligations, duties and functions to do and perform each of the following for the benefit of the Owners and Members and for maintenance, administration and improvement of the Subject Property and other property owned by the Association, the Pond easement areas and any Common Areas or any other property as may be required or appropriate. The Open Space shall be maintained according to the requirements outlined in the Open Space Management Plan. Currently no maintenance building is planned for this development.

**Section 3. Powers and Authorities of Association.** The Association shall have all of the powers of a nonprofit corporation organized under the laws of the state of Idaho, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, By-Laws or this Declaration. The Association shall have the power to do any and all lawful things which may be authorized, required or permitted to be done hereunder, or by the Articles and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of its express powers, including the following which are listed without intent to limit the foregoing articulation:

- (a) **Assessments.** To levy Assessments, charges, fines and penalties on the Owners, and to enforce the payment of the same, all in accordance with provisions of this Declaration and its Supplements, the Articles, By-Laws, Rules and Regulations of the Association.
- (b) **Easements and Right of Way.** To grant and convey to any third party easements and rights of way in, on, over or under the Association's property or common areas owned by the Association for the purpose of constructing, erecting, generating or maintaining any improvements, utilities or other facilities, subject to the prior written approval of the Design Committee.

- (c) **Employment of Manager and Employees.** To employ the service of any person or firm as manager, together with employees, to manage, conduct and perform the business, obligations and duties of the Association as may be directed by the Board and to enter into contracts for such purposes. To obtain and pay for legal, accounting, engineering, management and other professional services as may be necessary or desirable.
- (d) **Mortgage Protective Agreements.** To execute and cause to be recorded from time to time agreements in favor of holders or insurers of mortgages secured by portions of the subject property. Such Agreements may condition specified action relevant to this Declaration or the activities of the Association upon approval by a specified group or number of such mortgage holders or insurers.
- (c) **Right to Make Rules and Regulations.** The Association shall be authorized to and shall have the power to adopt and enforce rules and regulations to regulate use of any and all facilities and property of the Association to assure fullest enjoyment and use by the persons entitled to enjoy and use the same, provided that such rules and regulations shall not be in conflict with the Declaration or any Supplemental Declaration. The Association may provide for enforcement of any such rules and regulations through reasonable and uniformly applied fines and penalties, through exclusion of violators from property and facilities of the Association or otherwise. Each Owner, members of his family and his tenants, guests and invitees shall be obligated to comply with and abide by any such rules and regulations.
- (f) **Right to Prosecute Actions.** The Association shall have the power and authority from time to time, in its own name, on its own behalf or on behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits in law and in equity to restrain any breach or threatened breach of this Declaration or any Supplemental Declaration and to enforce, by mandatory injunction or otherwise, all of the provisions of this Declaration or any Supplemental Declaration.
- (g) **Insurance.** To obtain, maintain and pay for such insurance policies or bonds, whether or not required by any provision of the Declaration, or any By-Laws, as the Association shall deem to be appropriate for the protection or benefit of the Owners, their tenants or guests, including, but without limitation, fire and extended coverage insurance covering the Association property, pond easement areas, liability insurance, workmen's compensation insurance, malicious mischief insurance, automobile non-ownership insurance and performance and fidelity bonds.
- (h) **Utility Service.** To contract and pay for, or otherwise provide for, utility services, including, but without limitation, water, sewer garbage, electrical,



telephone and gas services over any of the subject property owned by the Association.

- (i) **Road Maintenance.** To contract and pay for, or otherwise provide for, the construction, reconstruction, repair, maintenance, snow removal, replacement or refinishing of any roads, drives or other paved areas upon any portion of the subject property owned by the Association. All snow removal and road maintenance will be governed by the Board of Directors. Toads shall be maintained to Jefferson County, Idaho standards.
- (j) **Protective Services.** To contract and pay for, or otherwise provide for, fire and such other protective services as the Association shall from time to time deem appropriate for the benefit of the Owners, their tenants and guests.
- (k) **General Contracts.** To contract and pay for, or otherwise provide for, such materials, supplies, furniture, equipment and labor as and to the extent the Association deems necessary.
- (l) **Liens.** To pay and to discharge any and all liens from time to time placed or imposed upon any Common Area owned by the Association on account of any work done or performed by the Association in the fulfillment of any of its obligations and duties of maintenance, repair, operation or administration.
- (m) **Implied Rights of the Association.** The Association shall have any may exercise any right or privilege given to it expressly in the Declaration or any Supplemental Declaration, its Articles and By-Laws, or except to the extent limited by the terms and provisions of this Declaration, given to it by law and shall have and may exercise every other right or privilege or power and authority necessary or desirable to fulfill its obligations, including, without limited the generality of the foregoing.
- (n) **Right to Enter Upon Any Lot.** The Association, or its duly authorized agents, shall have the right at any time, and from time to time, without liability to any Owner for trespass or otherwise, to enter upon any Lot of the subject property, or any structure or improvement thereon, for the purpose of
  - (1) Maintaining same in the event of default on the part of the Owner or Owners there of, in the maintenance thereof;
  - (2) Removing any change in the existing state of property in violation of the provisions of Article IV hereof;
  - (3) And otherwise enforcing the Covenants contained in this Declaration or any provisions, Covenants, Conditions or Restrictions contained in any Supplemental Declaration; provided, however, any entry into any

such structure shall require 24 hours advance notice by personal delivery or posting.

## ARTICLE VII

### Association-Member and Management

**Section 1. Regular Membership.** There shall be one (1) Regular Membership in the Association and one (1) vote for each Lot regardless of the size of such Lot, and regardless of the differences in the size or scope of Improvements thereon. Such Membership in the Association shall be mandatory. Each such membership shall be appurtenant to the fee simple title to such Lot. The Owner or Owners (including Declarants) of the Lot shall be deemed the Owner or Owners of the Membership appurtenant to the property and title to and ownership of the Membership for that property shall automatically pass upon transfer of fee simple title or long term lease to that property. Each Owner or Owners of a Lot aforesaid shall be at all times entitled to the benefits and subject to the burdens relating to the Membership for such property. For purposes hereof, if an Owner has entered into a lease for the property with an original term of twenty-five (25) years or more, such Owner shall give such lessee his proxy to exercise rights of membership as to such property and shall file such proxy with the Association. If fee simple title or long term lease to a Lot as aforesaid, is held by more than one person or entity, the Membership appurtenant to that property shall be shared by all such persons or entities in the same proportionate interest and by the same type of ownership in which fee simple title to that property is held. Such persons or entity shall designate a representative to vote for the Membership.

**Section 2. Board of Directors.** The affairs of the Association shall be managed by a Board of Directors consisting of three (3) persons. In all events, the Board of Directors may, however, delegate any portion of its authority, by resolution, or to an Executive Committee, or to an Executive Manager or Director for the Association. Members of the Board of Directors shall be elected annually by the Members after the Declarants' Development Period, which shall be until five (5) Lots have been sold. Vacancies in the Board may be filled by the action of a majority of the remaining Board Members. Member of the Board and their officers, agents and employees, acting in good faith on behalf of the Association:

- (a) Shall not be liable to Owners as a result of their activities for any mistake of judgment, negligence or otherwise, except for their own willful misconduct or bad faith;
- (b) Shall have no personal liability in contract to an Owner or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Association in their capacity;
- (c) Shall have no personal liability in tort to any Owner or any person or entity, except for their own willful or bad faith;

- (d) Shall have no personal liability arising out of the use, misuse or condition of the property which might in any way be assessed against or imputed to them as a result of or by virtues of their official capacity.

**Section 3. Voting of Members.** Each Member shall have one vote for each Lot as provided in Section 1 herein above, in the election of members of the Board of Directors of the Association, and in all other matters submitted to the vote Members. In all voting by Members, voting by proxy shall be allowed and permitted and, in all voting members of the Board, cumulative voting shall be allowed and permitted. In no event shall more than one vote be cast with respect to any Lot. Until 10 lots, or 75% of the Lots have been sold and title transferred to Owners other than Declarants, whichever occurs first, the Declarants reserve the right to appoint and remove all members of the Board and to exercise the powers and responsibilities otherwise assigned by the Declaration to the Association. Notwithstanding the foregoing, by express written declaration, Declarants shall have the option to, at any time; turn over to the Association and its members, the total responsibility for electing and removing members of the Board.

**Section 4. Notice of Meetings.** A Member shall be entitled to at least thirty (30) days' notice of all meeting in which a vote of the members is to be taken and when the amount of all Assessments which the Members are obligated to pay will be determined. Notice shall be considered given when written notice is mailed or telegraphed to a Member, addressed to the Member under the name and address for the Member furnished by the Member to the Association and, in any event, shall be deemed given on the earlier of actual receipt of five(5) days after mailing or telegraphing. If a Member fails to furnish a name and address to the Association to which notices may be mailed, the Association shall be entitled to give notice by mail, telegraph or delivery of a written notice to the address of such Member's property, addressed "Care of Owners"

**Section 5. Quorum.** A quorum shall consist of fifty-one (51) percent of the Members.

## ARTICLE VIII

### Assessments

**Section 1. Operating Fund.** The Association, acting by and through the Board, shall collect and deposit to an account in the name of the Association all monies paid to it by way of assessment, fees or charges for the use of any Common Area, or otherwise and from which the Association shall make disbursements in performing the functions which the Association performs under this Declaration.

**Section 2. Maintenance Assessment.** Not later than thirty (30) days prior to the commencement of each calendar year, the Association shall estimate the costs and expenses to be incurred by it during such year in performing its function including reasonable provisions for defraying expenses attributable to ownership, maintenance, operation and furnishing of Common Area and the Improvements thereon and for

contingencies, reconstruction and replacements and for alterations, modification and improvements thereto, including but not limited to the payment of taxes of the Association, the payment of taxes levied on with respect to the property owned by the Association, the payment of utility charges, maintenance expenses for the utility installations and roads and snow removal therefore, lease of the Caretaker's Residence, Board expenses, expenses of the Design Committee, expenses of enforcement of this declaration and professional fees. In so estimating, the Association shall take into consideration the anticipated balance in the operating fund as of the start of such year and the estimated receipts of all assessments, charges, fees and other payments to be collected during the year. The net estimate determined by the Association as being necessary and required shall be divided and assessed by it as of January 1<sup>st</sup> of each year as an assessment for such year against all Owners and Lots (each Lot being treated the same as all other Lots, regardless of differences in size, whether improved or unimproved and size, degree or nature of the Improvements) in proportion to the number of Lots owned by each Owner provided, however, neither the Declarants nor any entity which they control, including but not necessarily limited to, K&J Development LLC, who are or may be involved in the development and/or sales of Lots in Water Front Estates Subdivision, shall not be assessed for any of said Lots, even though one or more of said entities may be the Owner. Said entities may, at the option of the entities, elect to pay an assessment on one or more Lots, but shall not be required to do so. Payment of an assessment by one or more of said entities in any year shall not be basis for requiring any payment in any year thereafter. This provision controls notwithstanding anything contained herein to the contrary. Said entity shall not be deemed an "Owner" within the meaning of the assessment requirements contained Article VIII.

**Section 3. Supplemental Assessment.** If at any time and from time to time during any year it shall appear that the assessment is or will be inadequate for any reason, including nonpayment by any Owner of his share, the Association may levy a further assessment to all Owners in the amount of such actual estimated inadequacy.

**Section 4. Payment of Maintenance Assessment.** The assessments shall be due and payable by the Owners to the Association in equally quarterly installments in advance on or before the thirtieth (30<sup>th</sup>) day of each January, April, July, and October, or in such other manner as the Association shall designate, but not in advance in an amount in excess of the estimate for the full year.

**Section 5. Special Assessments.** The Association may also levy a special assessment against any Owner where, as a direct result of said Owner's acts or failure or refusal to act or otherwise to comply with this Declaration, the By-Laws, the Covenants and any rules prescribed by the Board of Directors of the Design Committee, monies were or will have to be expended from the fund by the Association in performing its functions or enforcing the Covenants under this Declaration, the By-Laws, the Covenants or any rules prescribed by the Board of Directors or the Design Committee. Such special assessment shall be in the amount to be expended or so expended therefore and shall be due and payable to the Association when levied and shall include without limitation, engineers', architects', attorneys' and accountants' fees reasonable incurred by the Association.

**Section 6. Special Assessments for Capital Improvements.** In addition to the annual assessments, the Association may levy a special assessment for the purpose of paying part or all of the costs of construction, re-construction or replacement of any capital improvements located upon any Common Area, including necessary fixtures or personal property related thereto. Any special assessment shall apply only to the year in which it is set. And special assessment shall require the prior approval of two-thirds (2/3) of the Members. There shall be a development fund into which the Association shall deposit all monies paid to it as special or capital development assessments and income and profits attributable to investment of the development fund and from which Association shall make disbursements in performing the functions for which such assessments are levied.

**Section 7. Obligation of Payment.** Each assessment (maintenance, supplemental, special or development) shall be separate, distinct and personal debt and obligation of the Owner against whom it is assessed, at the time the assessment is made, and each Owner of any Lot, by acceptance of a deed therefore, whether or not it be so expressed in such deed, is deemed to covenant and agree to timely pay the same to the Association. If the Owner does not pay such assessment, or any installment thereof, when due, the Owner shall be deemed in default and the amount of the assessment not paid plus inters at one-half percent (1 ½%) per month (not to exceed, however, the highest rate permitted under Idaho Law) and costs, including reasonable attorney's fees, shall be and become a lien upon the Lot or Lots of such Owner, effective upon and as of the recordation of a notice of default. Such notice of default shall set forth the amount of the delinquent assessment and other charges, a description of the Lot against which the same has been assessed and the name of the record holder thereof and shall be signed by an officer of the Association and shall be mail to the Owner at least ten (10) days prior to the recording of a lien. Such lien shall be prior to all other liens filed except that it be subject and subordinate to the lien of any previously filed mortgage on such lot of such Owner, and the sale or transfer of any Lot in foreclosure of such mortgage, whether by judicial proceedings or pursuant to a power of sale contained in such mortgage. Such lien may be foreclosed by the Association in like manner as a mortgage of real property, and the Association shall have the power to bid on the Lot as a foreclosure sale and to acquire and thereafter hold, lease, mortgage and convey the same. The foregoing remedies shall be in addition to any other remedies provided by law for the enforcement of such assessment obligation. Upon payment of any such delinquent assessment, interest and charges in connection with which such notice of default has been so file, or other satisfaction thereof, the Association shall cause to be filed a further notice stating the satisfaction and release of the lien thereof.

**Section 8. Estoppels Certificate.** On request by any proposed purchaser, Mortgage or transferee of a Lot, the Association shall execute and acknowledge a certificate stating the amount of the assessment secured by any lien upon such Lot, or that there is no outstanding assessment, as the cause may be. Such certificate shall be conclusive upon the Association and the Owners in favor of all persons who rely thereon in good faith as of the amount of such indebtedness or the absence of any indebtedness as of the date of

the certificate. The Association may charge a reasonable fee for the issuance of such certificate.

**Section 9. No Exemption from Liability.** No Owner subject to assessment, charges, fines or penalties hereunder may exempt himself from liability for same, nor release his Lot or any portion thereof from the liens thereof by waivers of the use and enjoyment of the property and facilities promoted by such assessments, charges, fines and penalties or by abandonment of his Lot or any portion thereof.

**Section 10. Uniform Rate of Assessment.** The annual Maintenance Assessment, Supplemental Assessments and Special Assessments for Capital Improvements shall be fixed at a uniform rate for all Lots, including those Lots owned by the Declarants. Each Lot will be assessed no more than 1/51<sup>st</sup> ratio. This ratio may change, however, if Lots are combined or properties are annexed.

## ARTICLE IX

### Property Rights

**Section 1. Drainage and Irrigation.** There is hereby reserved to Declarants a nonexclusive easement for drainage and irrigation of surface waters from portions of the subject property across other portions of the subject property. Said drainage and irrigation shall conform to a development plan as it is developed by Declarants. Irrigation water may be delivered by ditches, above ground water lines and below ground water lines. Drainage and irrigation shall be limited to reasonable amounts of water and shall be so designed and constructed so as not to materially interfere with the development, use and enjoyment of the portions of the property onto which such water drains and flows. After an initial drainage and irrigation is developed, the drainage and irrigation as established shall not be altered, modified or changed as to any part of the subject property without the consent of the Owners who will be affected by any such alterations, modification or change. The Board shall have the authority to manage and regulate the drainage and irrigation systems on the subject property.

**Section 2. Roads.** Each Owner of a Lot, as well as a Declarant and the Owner of the Common Area and recreation area shall have a nonexclusive easement appurtenant to his property of ingress and egress over and on all roads. Each Owner may delegate his right under said nonexclusive easement for the benefit of his family, tenants, servants, employees, agents, guests and invitees and any transferee by the way of lease assignment or contract for purchase of the property to which said nonexclusive easement is appurtenant.

**Section 3. Members' Easements of Enjoyment.** Subject to the applicable rules and regulations, existing easements and reservation of right, and requirements of applicable law, every member of the Association shall, as Owner of one or more Lots, together with Declarants, have a right and nonexclusive easement of use and enjoyment in and to all property owned by the Association, property interest and recreational facilities owned or

held by the Association. Such right and easement shall be appurtenant to and shall pass with the title to every Lot subject to the following limitations: The right of the Association to limit the number of guests and to adopt Association Rules regulating the use and enjoyment of the same.

**Section 4. Delegation of Use.** The Owner of any Lot may delegate to any occupant of the same the right to the use and enjoyment of the said facilities and any privilege appurtenant to such Lot on which the same is located to use and enjoy any common areas.

**Section 5. Parking Rights.** The use of parking areas (if any) within the Association's properties Common Area, together with the terms and conditions with regard to such use, shall be subject to and at all times governed by the Declarants' rules or the Association's rules as the same are in effect from time to time.

## ARTICLE X

### Miscellaneous

**Section 1. Duration of Declaration.** Any provision, covenant, condition or restriction contained in this Declaration or any Supplemental declaration shall be Covenants running with the land for the use and benefit of the Lots, Association's property and Common Area, and shall continue and remain in full force and effect for the period of forty (40) years following the date of recording after which time they shall continue automatically for successive periods of ten(10) years, unless at least one year prior to the expiration of any such period, this Declaration is terminated by recorded instrument directing termination signed by the Owners of not less than two-thirds (2/3) of the aggregate number of Lots.

**Section 2. Effect of Provisions of Declaration.** Each provision, covenant, condition and restriction contained in this Declaration:

- (a) Shall be deemed incorporated in each deed or other instrument by which any right, title or interest in any real property subject to this Declaration is granted, devised or conveyed, whether or not set forth or referred to in such deed or other instrument;
- (b) Shall, by virtue of any person's or entities acceptance of any right, title or interest in any parcel of property subject to this Declaration, be deemed accepted, ratified, adopted and declared as a personal covenant of such person or entity and as a personal covenant of such person's or entities heirs, personal representatives, successors and assigns and, if a personal covenant of a person or entity other than the Association or Declarants shall be deemed a personal covenant to, with and for the benefit of Declarants and to, with and for the benefit of the Association and if a personal covenant of the Association, shall be deemed a personal covenant to, with and for the benefit of Declarants and

to, with and for the benefit of each Owner of Property subject to this Declaration;

- (c) Shall be deemed a real covenant by Declarants, for itself, its successors and assigns, and also an equitable servitude running, in each case, as a burden with the title to each parcel of property now to hereafter subject to his Declaration and, both as a real covenant and an equitable servitude, shall be a burden upon and binding on each such parcel of property and upon each person or entity owning any right, title or interest in such parcel of property for so long as such person or entity owns any such right, title or interest, and with respect to any property of a person or entity other than the Association, or Declarants, shall both as a real covenant and an equitable servitude be deemed a covenant and servitude for the benefit of any property now or hereafter owned by the Association which is subject to this Declaration and for the benefit of any and all property which is subject to this Declaration;
- (d) Shall be deemed a covenant, secured by a lien binding, burdening and encumbering the title to each parcel of property which is subject to this Declaration and, with respect to any property or entity other than the Association or Declarants, shall, as a lien, be deemed a lien in favor of Declarants and the Association and, with respect to any property owned by the Association, shall, as a lien, be deemed a lien in favor of Declarants;
- (e) Shall be deemed a condition subject to which title to each parcel of property which is subject to this Declaration is and shall at all time be held.

**Section 3. Enforcement and Remedies.** The covenants contained in this Declaration and the provision, covenants, conditions and restrictions contained in any Supplemental Declaration with respect to the subject property, the Association or property of the Association shall be enforceable by Declarants, by the Association, or by any Owner of property subject to this Declaration by a proceeding for a prohibitive or mandatory injunction. The covenants contained in this Declaration and the provisions, covenants, conditions and restrictions contained in any Supplemental Declaration with respect to a person to entity or property of a person or entity or the Association or Declarants shall be enforceable by the Declarants or the Association by a proceeding for prohibitive or mandatory injunction or by a suit or action to recover damages or to recover any amount due or unpaid or, in the discretion of the Association or the Declarants, for so long as any person or entity fails to comply with any such provision, covenant, condition or restriction, by exclusion of such person or entity and such person's or entities guest or invitees from use of any property or facility owned or held by the Association and from enjoyment of any function undertaken by the Association. In Addition to the remedies stated above, if, with respect to any property subject to this Declaration, conveyed to the Association or to any other person or entity by Declarants, there is a violation or breach of or failure to comply with any of the provisions, covenants, conditions or restrictions contained in any Supplemental Declaration, then Declarants shall be deemed to have and shall have a power of termination and the right immediately or at any time during the



continuation of any such violation, breach or failure to re-enter and take possession of the real property and, upon exercise of this right of re-entry, title to the property shall thereupon vest in Declarants. This right of re-entry and for revising of title shall be subject to the provisions of Article IV, Section 7. If court proceedings are instituted in connection with the rights of enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to recover its costs and expenses in connection therewith, including reasonable attorney's fees.

**Section 4. Protection of Mortgagee.** No violation or breach of any of the provisions, covenants, conditions or restrictions contained in this Declaration or any provision, covenant, condition or restriction contained in any Supplemental Declaration and no action to enforce the same shall defeat, render invalid or impair the lien of any Mortgage taken in good faith and for value and perfected by recording prior to the time of recording of an instrument giving notice of such violation or breach, or the title or interest of the holder thereof or the title acquired by any purchaser upon foreclosure of any such Mortgage. Any such purchaser shall, however, take subject to this Declaration. Violations or breaches which occur prior to such foreclosure shall not be deemed breaches or violations hereof with respect to such purchaser, his heirs, personal representatives, successors or assigns.

**Section 5. Limited Liability.** Neither Declarants, the Association, the Board of Directors of the Association, the Design Committee nor any member, agent or employee of any of the same shall be liable to any party for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith.

**Section 6. Successors and Assigns.** This Declaration and any Supplemental Declaration shall be binding upon and inure to the benefit of the heirs, successors, assigns and personal representatives of the Association, Declarants, Owners, lessees, guests, invitees and all other persons or entities deriving rights there from, whether voluntary or involuntary by operation of law otherwise.

**Section 7. Severability.** Invalidity or unenforceability of any provision of this Declaration or of any Supplemental Declaration in whole or in part shall not affect the validity or enforceability of any other provision or valid and enforceable part of a provision of this Declaration or of any Supplemental Declaration.

**Section 8. Caption.** The captions and headings in this instrument are for convenience only and shall not be considered in construing and covenant contained in this Declaration.

**Section 9. No Waiver.** Failure to enforce any covenant in this Declaration or in any Supplemental Declaration shall not operate as a waiver of any such covenant or of any other provision, restriction, covenant or condition.

**Section 10. Notice.** Except as otherwise provided, any notice permitted or required to be delivered may be done so either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered five (5) days after a copy of same has been

deposited in the United States Mail, postage prepaid, addressed to the person at the address given by such person to the Board of Directors of the Association for the purpose of service of such notice, or to the property of such person which is subject to this Declaration or any Supplemental Declaration if no address has been given to the Board of Directors. Such address may be changed from time to time by notice in writing to the Board of Directors of the Association.

**Section 11. Amendment.** The provisions of this Declaration may be amended by the vote of those holding at least two-thirds (2/3) of the votes of the Members in the Association. Any amendment so authorized shall be accomplished by recordation of an instrument executed by the Secretary of the Board.

**Section 12. Right to Farm Act.** Water Front Estates Subdivision is subject to the Idaho Right to Farm Act as found in Idaho Code, Chapter 45, and Sections 22-4501 through 22-4504, which specifically state: "...It is the intent of the Legislature to reduce the loss to the State of its agricultural Resources by limiting the circumstances under which agricultural operations may be deemed to be nuisance. The Legislature also finds that the Right to Farm is a natural right and is recognized as a permitted use throughout the State of Idaho. 'Agricultural Operation' includes, without limitation, any facility for the growing, raising or production of agricultural, horticultural, and viticulture crops and vegetable products of the soil, poultry and poultry products, livestock, field grains, seeds, hay, apiary and dairy products, and the producing for commercial purposed of livestock or agricultural commodities. No agricultural operation or an appurtenance to it shall be or become a nuisance, private or public, by any changed conditions in or about the surrounding nonagricultural activities after the same has been in operation for more than one (1) year, when the operation was not a nuisance at the time the operation began; provided that the provisions of this section shall not apply whenever a nuisance results from the improper or negligent operation of any agricultural operation or an appurtenance to it."

IN WITNESS THEREOF

The undersigned have executed this instrument this 29 day of February in the year 2008.

Jerry L Parker  
Jerry Parker

Cyndee Parker  
Cyndee Parker

State of Idaho )  
County of Jefferson )



On this 29 day of February, 2008, before me, the undersigned, a Notary Public in and for said State, personally appeared Jerry Parker, and Cyndee Parker, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS THEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate above written.

Notary Public: Trina A. Smith  
Residing At: Beqby, OR  
My Commission Expires: 6/20/2012