

1149697

DECLARATION OF

COVENANTS, CONDITIONS, AND RESTRICTIONS  
AND RESERVATION OF EASEMENTS

FOR

ARMSTRONG PARK

A PLANNED UNIT DEVELOPMENT

COEUR D'ALENE, IDAHO

STATE OF IDAHO }  
COUNTY OF KOOTENAI } SS

AT THE REQUEST OF

*Stewart Coast Co. Roy A. Stue*

At 10 minutes past 10 o'clock A.M

Shirley Datz

MAY 26 1989

By *Deborah K. ...*

Deputy

Fee \$ 294.00

Return to

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DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
AND RESERVATION OF EASEMENTS  
FOR  
ARMSTRONG PARK  
A PLANNED UNIT DEVELOPMENT  
COEUR D'ALENE, IDAHO

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THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND RESERVATION OF EASEMENTS ("Declaration"), is made on the date hereinafter set forth, by GARY LOW INVESTMENTS, INC., a California Corporation, ("Declarant"), with reference to the following facts:

A. Declarant is the owner of a certain tract of land located in the City of Coeur d'Alene, Kootenai County, Idaho, which property is more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property").

B. Declarant has improved or intends to improve the Property by constructing thereon certain residential improvements and related facilities, and to establish thereon a planned Unit development, to be managed, operated, and maintained by an incorporated Association of Owners, for the benefit of all parts of the Property.

C. As part of the development process, Declarant has caused the Property (as well as additional adjacent property) to be annexed to the City of Coeur d'Alene, pursuant to an Amended Annexation Agreement, dated April 18, 1989. That Agreement contains various construction provisions and use restrictions applicable to Declarant's ownership, development, and sale of its Property. While not formally of record, the terms of the Amended Annexation Agreement are incorporated by this reference, and the provisions pertaining to the construction, use, and/or occupancy of individual residences shall be binding upon and inure to the benefit of all Owners of Units within the Property, as though fully set forth herein.

D. The development shall be hereinafter referred to as the "Project." The Owner of each Unit shall receive fee title to his individual Lot and the residential Dwelling thereon and all rights associated with membership in THE ARMSTRONG PARK HOME-OWNERS ASSOCIATION, INC.

E. Declarant intends by this document to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of all of the said Units and the Owners thereof.

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Declarant hereby declares that the Property shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold, and improved, subject to the following declarations, limitations, covenants, conditions, restrictions, and easements, all of which are for the purpose of enhancing and protecting the value and attractiveness of the Property, and the Project, and every part thereof, in accordance with the plan for the improvement, sale, and operation of the Property as a planned Unit development. Additionally, the Property shall be subject to all terms of the Amended Annexation Agreement dated April 18, 1989, between Declarant herein and the City of Coeur d'Alene, to the extent such Agreement pertains to the construction, use, and/or occupancy of individual Lots (and the Common Area) within the Property. All of the limitations, covenants, conditions, restrictions, and easements shall constitute covenants and encumbrances which shall run with the land and shall be perpetually binding upon Declarant and its successors-in-interest and assigns, and all parties having or acquiring any right, title, or interest in or to any part of the Property or the Project.

ARTICLE 1

DEFINITIONS

Unless otherwise expressly provided, the following words and phrases, when used in this Declaration and in the Project Documents, shall have the following meanings:

1.1 Architectural Committee: The Architectural Committee created pursuant to Article 4 of this Declaration.

1.2 Articles: The Articles of Incorporation of the Association as amended from time to time.

1.3 Assessment: That portion of the cost of maintaining, improving, repairing, operating, and managing the Property which is to be paid by the Unit Owners as determined by the Association under this Declaration (or by any Subassociations established according to this Declaration). Assessments may be designated as Regular Assessments, Extraordinary Assessments, or Special Assessments, as those terms are more specifically defined in Article 6 of this Declaration.

1.4 Association: THE ARMSTRONG PARK HOMEOWNERS ASSOCIATION, INC., a Idaho nonprofit corporation, formed or to be formed by Declarant in conjunction with the establishment of the planned Unit development, the members of which shall be the Owners of Units in the Project.

1.5 Board or Board of Managers: The governing body of the Association.

1.6 Builder: Any Owner acquiring two (2) or more Lots directly from the Declarant for purposes of constructing

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Dwellings thereon for resale to members of the general public, proved that a person's status as a builder shall terminate with respect to any Lot upon resale of the Lot or upon conversion of such Lot to personal use of the Builder.

1.7 Bylaws: The Bylaws of the Association as amended from time to time. The initial Bylaws shall be as adopted by the incorporating members of the Board of Managers.

1.8 Common Area: All the real property and improvements located within the Project, other than the Lots and Dwellings, but including without limitation, the Recreation Area, the Open Area, the RV Parking Area, and the Private Roads, all of which shall be owned and maintained by the Association for the common use and enjoyment of all Owners. Additionally, the Common Area shall include any other property conveyed to the Association for the use and benefit of the Owners of all Units in the Project. The initial Common Area is designated as such on Exhibit "A" attached hereto and incorporated by reference.

1.9 Common Easements: Those areas designated on the Plat Map as landscape/sign easements and drainage easements, which are deemed to be for the use and benefit of all Owners of Units within the Project, which shall be maintained by the Association. Additionally, the Common Easements shall include any other easements conveyed to the Association for the use and benefit of the Owners of all Units in the Project.

1.10 Common Expenses: The actual and estimated expenses of maintenance, improvement, repair, operation, insurance and management of the Common Area and the Common Easements, expenses of administration of the Association, and any reasonable reserve for such purposes as determined by the Board, and all sums designated Common Expenses by or pursuant to the Project Documents.

1.11 Common Wall: Any wall which is common to and separates any two Dwellings.

1.12 Declarant: GARY LOW INVESTMENTS, INC., a California Corporation, and its successors-in-interest and assigns with respect to the Property, but shall not include Builders or members of the public purchasing completed Units.

1.13 Declaration: This Declaration of Covenants, Conditions and Restrictions and Reservation of Easements, as it may be amended from time to time.

1.14 Dwelling: Any building or portion thereof within the Project which is designed and intended for use and occupancy as a single-family residence.

1.15 Lot: Any residential Lot shown upon the recorded Plat Map of the Project, created for the construction of a private

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Dwelling. The term "Lot" does not include any portion of the Common Area.

1.16 Member: A person entitled to membership in the Association as provided herein.

1.17 Mortgage: Includes a recorded mortgage, deed of trust, real estate contract, or other instrument creating a security interest in any Unit.

1.18 Mortgagee: Includes a mortgagee, beneficiary or holder of a deed of trust, real estate contract vendor, or other holder of a mortgage on any Unit.

1.19 Mortgagor: Includes a mortgagor, the trustor of a deed of trust, real estate contract vendee or other individual granting a security interest in any Unit.

1.20 Open Area: Those portions of the Common Area consisting of open space to be retained in its natural condition, to be owned in fee and maintained by the Association, and which are hereby dedicated to be used for park and recreational purposes.

1.21 Owner or Owners: The record holder or holders of title to or a contract vendee's interest in a Unit in the Project. This shall include any person having a fee simple title to any Unit, but shall exclude persons or entities having any interest merely as security for the performance of any obligation. Further, if a Unit is sold under a recorded contract of sale to a purchaser, the purchaser, rather than the fee owner, shall be considered the "Owner," and the fee owner would be considered as a mortgagee.

1.22 Person: Any natural person, corporation, partnership, association, trustee, or other legal entity.

1.23 Plat Map: The recorded map (and further maps relating to subsequent Phases) prepared by or for Declarant showing the surface of the Property and the division thereof into Lots and Common Area.

1.24 Phase: A particular parcel of property which is or shall become part of the Project pursuant to the recordation of an appropriate Declaration of Annexation. The property described in Exhibit "A" to this Declaration shall be deemed to be the first Phase of the Project and any parcel annexed to the property described in Exhibit "A" under a Declaration of Annexation shall be deemed to be a subsequent Phase of the Project.

1.25 Private Roads: Those portions of the Common Area consisting of private streets and roadways providing access from the Lots to the public right of way, to be owned in fee and maintained by the Association.



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1.26 Project Documents: This Declaration, the Plat Map, the Articles and Bylaws of the Association, and any architectural or other rules promulgated by the Declarant or the Association pursuant to this Declaration or the Articles or Bylaws, as each shall be amended from time to time.

1.27 Property or Project (synonymous): The real property covered by this Declaration (including subsequent Phases when properly annexed), all easements, rights and appurtenances belonging thereto, and all improvements erected or to be erected thereon.

1.28 RV Parking Area: Those portions of the Common Area consisting of facilities dedicated to the storage of recreational vehicles and other equipment not appropriate for storage on individual Lots, to be owned in fee and maintained by the Association.

1.29 Recreation Area: Those portions of the Common Area consisting of various recreational improvements and facilities dedicated to the common enjoyment of the Owners of all Lots within the Project for park and recreational purposes, which shall be owned in fee and maintained by the Association.

1.30 Subassociation: A separate organization which may be established under this Declaration to attend to the unique requirements of a particular Townhouse Cluster.

1.31 Townhouse Cluster: A group of Lots, some of which may have adjoining Dwellings constructed thereon, designated as such on Exhibit "A" hereto. Townhouse Clusters are separately designated because of special maintenance and assessment requirements necessitated by unique design, construction and location.

1.32 Townhouse Unit: Any Unit within a Townhouse Cluster.

1.33 Unit: All elements of individual ownership of a residential interest in the Project, including ownership of a Lot and Dwelling thereon, nonexclusive use of the Common Area and the Common Easements, and all rights of membership in the Association.

END OF ARTICLE 1  
DEFINITIONS

1149697 ARTICLE 2

ASSOCIATION, ADMINISTRATION, MEMBERSHIP AND  
VOTING RIGHTS; SUBASSOCIATIONS

2.1 Organization of Association.

The Association is or shall be incorporated under the name of THE ARMSTRONG PARK HOMEOWNERS ASSOCIATION, INC.

2.2 Duties and Powers.

The duties and powers of the Association are those set forth in this Declaration, the Articles and Bylaws, together with its general and implied powers of a nonprofit corporation, generally to do any and all things that a corporation organized under the laws of the State of Idaho may lawfully do which are necessary or proper in operating for the peace, health, comfort, safety and general welfare of its Members, subject only to the limitations upon the exercise of such powers as are expressly set forth in this Declaration, the Articles and Bylaws. Without limiting the generality of the foregoing, the primary functions of the Association shall be the maintenance, operation and insurance of the Common Area and the Common Easements.

2.3 Membership.

The Owner of a Unit shall automatically, upon becoming the Owner of the Unit, be a Member of the Association, and shall remain a Member thereof until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership shall be in accordance with the Articles and the Bylaws of the Association.

2.4 Transferred Membership.

Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the transfer of ownership of the Unit to which it is appurtenant, and then only to the new Owner. Any attempt to make a prohibited transfer is void. In the event the Owner of any Unit should fail or refuse to transfer the membership registered in his name to the purchaser of his Unit, the Association shall have the right to record the transfer upon its books and thereupon the old membership outstanding in the name of the seller shall be null and void.

2.5 Classes of Membership; Voting Requirements.

The Association shall have two (2) classes of voting membership established according to the Articles, and voting requirements shall be as set forth in the Bylaws.

## 2.6 Membership Meetings.

Regular and special meetings of Members of the Association shall be held with the frequency, at the time and place, and in accordance with the provisions of the Bylaws of the Association.

## 2.7 Board of Managers.

The affairs of the Association shall be managed by a Board of Managers, which shall be established and which shall conduct regular and special meetings according to the provisions of the Bylaws of the Association.

## 2.8 Use of Agent.

The Board of Managers, on behalf of the Association, may contract with a professional management agent for the performance of maintenance and repair and for conducting other activities on behalf of the Association, as may be determined by the Board. The term of such contract, or any contract with Declarant for the furnishing of services to the Association, shall not exceed one (1) year, renewable by agreement of the parties for successive one-year periods, and such contract shall be terminable by the Association, acting through the Board, at any time (a) for cause upon thirty (30) days' written notice thereof, and (b) without cause or the payment of a termination fee upon ninety (90) days' written notice.

## 2.9 Subassociations.

Notwithstanding anything to the contrary set forth or implied in this Declaration or elsewhere in the Project Documents, a majority of the total voting power residing within a particular Townhouse Cluster may elect to establish a separate Subassociation for the sole purpose of managing that Townhouse Cluster. In that event, the Subassociation shall assume, and the Association shall be relieved from, all responsibility with respect to the assessment and collection of dues and the payment of expenses directly attributable to that Townhouse Cluster. Further, each Owner of a Unit within that Cluster shall be a member both of the Subassociation and the Association, but the Owner's participation in and responsibility to the Association shall then be identical to the participation and responsibility of all Owners of Units which are not within a Townhouse Cluster. The Subassociation may be incorporated or unincorporated, according to the majority vote of its members, but the constituent documents governing the Subassociation shall be substantially similar to the Articles and Bylaws of the Association, modified to accommodate the unique nature of the particular Townhouse Cluster concerned. Notwithstanding the formation of a Subassociation, all architectural review and architectural enforcement

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powers shall remain vested in the Association, and the Association shall retain all necessary power to assure compliance by the Subassociation with the terms and intent of the Project Documents.

END OF ARTICLE 2  
ASSOCIATION, ADMINISTRATION, MEMBERSHIP  
AND VOTING RIGHTS; SUBASSOCIATIONS

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ARTICLE 3

RIGHTS IN COMMON AREA AND COMMON EASEMENTS

3.1 Common Area.

The Common Area shall include all real property and improvements within the Project designated as Recreation Area, Open Area, RV Parking Area, and the Private Roads, and any other land which may be conveyed to and accepted by the Association, all of which shall be dedicated to the common use and enjoyment of all Owners. The Common Area shall be owned, operated, maintained, and insured by the Association for the use and benefit of Owners of Units in the Project, subject to reasonable rules and regulations enacted according to the Bylaws. Each Unit Owner, through membership in the Association, shall have a nonexclusive right to use the Common Area in accordance with the purposes for which it is intended without hindering the exercise of or encroaching upon the lawful rights of any other Unit Owners. Notwithstanding the transfer of the Common Area to the Association, the Declarant shall reserve and hereby reserves in itself and its successors-in-interest and assigns an easement (and the right to grant further easements) over and onto the Common Area for ingress to and egress from the Project for the purpose of completing improvements thereon or for the performance of necessary construction, maintenance, or repair work, and for ingress and egress to and from adjacent property in connection with the development, use, and occupancy thereof.

Nothing in the foregoing paragraph shall be construed as prohibiting the Board from charging a reasonable storage fee for equipment to be stored in the RV Parking Area, or to establish such contractual requirements for the use of the RV Parking Area as may be reasonable to defray the cost of operation and/or to minimize risk to the Association.

3.2 Partition of Common Area Prohibited.

Regardless of the possible dissolution of the Association and the conveyance of fee title to the Common Area to the Owners as tenants in common pursuant thereto, no Owner shall bring any action for partition or division of any part of the Common Area, it being agreed that this restriction is necessary in order to preserve the rights of the Owners with respect to the operation, management, use, and enjoyment of the Common Area.

3.3 Common Easements.

The Common Easements shall consist of those areas designated on the Plat Map as landscape/sign easements and drainage easements, together with such other easement rights as may be conveyed to the Association for the benefit of all Lots in the Project. This term shall not, however, include utility or access easements, designated on the Plat Map or otherwise, the benefits

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of which are limited to designated Lots. The Common Easements shall be maintained by the Association for the use and benefit of Owners of Units in the Project, to the same extent and subject to the same limitations as are applicable to the Common Area under Paragraph 3.1 above.

3.4 Damage by Member.

Each Member shall be liable to the Association for any damage to the Common Area or the Common Easements not fully reimbursed to the Association by insurance, if the damage is sustained because of the negligence or willful misconduct of the Member, his guests, tenants, or invitees, or any other persons deriving their right and easement of use and enjoyment of the Common Area and the Common Easements from the Member, or his or their respective family and guests, both minor and adult. However, the Association, acting through the Board, reserves the right to determine whether any claim shall be made upon the insurance maintained by the Association, and the Association further reserves the right to levy a Special Assessment equal to the increase, if any, in insurance premiums directly attributable to the damage caused by the Member or the person for whom the Member may be liable as described above. The cost of correcting the damage to the extent not reimbursed to the Association by insurance shall be a Special Assessment against the Unit and may be enforced as provided hereby for the enforcement of any other Assessment.

END OF ARTICLE 3  
RIGHTS IN COMMON AREA AND COMMON EASEMENTS

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ARTICLE 4

ARCHITECTURAL CONTROL

4.1 Architectural Committee

The Architectural Committee shall consist of four (4) members, two (2) of which shall be appointed by the Declarant, one (1) of which shall be appointed by the Board of Managers, and a State of Idaho Certified Engineer which shall be appointed by the Declarant. At such time as ninety percent (90%) of the Units are sold (all Phases) or after ten (10) years following the recordation of this Declaration, whichever comes first, all members shall be appointed by the Board of Managers of the Association. Unless and until the Declarant and Board appoint the Committee, the functions of the Architectural Committee shall be performed by the Board.

4.2 Prohibition of Alteration and Improvement.

Subject to exemption of the Declarant hereunder, no structure, improvement, or alteration of any kind (which will be visible from other Dwellings, the Common Area, or any public right of way) shall be commenced, erected, painted or maintained upon the Property, until the same has been approved in writing by the Architectural Committee.

4.3 Plans and Approval.

The Architectural Committee shall make available to all Owners within the Project (at the Owner's expense for copying) a set of rules and guidelines to assist Owners in preparing plans under this Article 4. The rules and guidelines shall not be binding upon the Committee, but shall set forth general criteria to be considered by the Committee in evaluating a particular application for architectural approval.

Plans and specifications showing the nature, kind, shape, color, size, materials and location of any such structure, improvement or alteration shall be submitted to the Committee for approval as to quality of workmanship and design and harmony of external design with existing structures, and as to location in relation to surrounding structures, topography and finish grade elevation. In addition, all plans and specifications of any such structure submitted shall address the preservation and protection of natural drainage and shall be accompanied with a State of Idaho Certified Engineer's Soils Testing Report on the subject Lot and subsequent stamp of approval on all footings and foundation specifications. No permission or approval shall be required to rebuild in accordance with Declarant's original plans and specifications, or to rebuild in accordance with plans and specifications previously approved by the Committee.

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The Committee shall consider and act upon any and all plans and specifications submitted for it's approval under this Article and perform such other duties as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure it's conformance with plans approved by the Committee. Any application submitted to the Committee pursuant to this Article shall be deemed approved, unless written disapproval or a request for additional information or materials by the Committee shall have been transmitted to the applicant within forty-five (45) days after the date of receipt by the Committee of all required materials.

4.4 Non-Liability of Committee Members.

Neither the Architectural Committee nor any member thereof shall be liable to the Association, or to any Owner for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's duties hereunder unless due to the willful misconduct or bad faith of the Committee or member. The Committee shall review and approve or disapprove all plans submitted to it for any proposed structure, improvement or alteration, solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and the Project generally, but shall not be responsible for reviewing, nor shall it's approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes.

END OF ARTICLE 4  
ARCHITECTURAL CONTROL



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ARTICLE 5

REPAIR AND MAINTENANCE

5.1 Repair and Maintenance Rights and Duties of Association.

Subject to provisions in this Declaration pertaining to eminent domain and destruction of improvements, the Association shall paint, maintain, repair and replace all parts of the Common Area and the Common Easements, or shall contract for such maintenance, repair and replacement to assure maintenance of such areas in good condition, reasonable wear and tear excepted. In the event an Owner fails to maintain his Dwelling or Lot, or provide other maintenance or repair as provided herein in a manner which the Board deems necessary to preserve the appearance and value of the Property, the Board may notify the Owner of the work required and request it be done within sixty (60) days (five (5) days for routine landscaping maintenance) from the giving of such notice. In the event the Owner fails to carry out such maintenance within such period, the Board may cause such work to be done and may specially assess the cost thereof to such Owner, and, if necessary, enforce the assessment lien against his Unit for the amount thereof.

For the purpose of performing any maintenance, repair or replacement as authorized by this Article, or for purposes of making emergency repairs necessary to prevent damage to the Project or to other Dwellings, or for any other purpose reasonably related to the performance by the Board of its responsibilities under this Declaration, the Association (and its agents and employees) shall have an irrevocable easement over and onto all portions of the Common Area and the Common Easements, and shall also have the irrevocable right, after reasonable notice to the Owner, and at reasonable hours, to enter any Lot and/or Dwelling.

5.2 Repair and Maintenance Rights and Duties of Owners.

Except for those portions of the Property which the Association is required or elects to maintain and repair, each Unit Owner shall, at his sole cost and expense, maintain and repair all components of his Dwelling and Lot (including interior and exterior, structural and nonstructural, and all landscaping), keeping the same in good condition, and shall repair all damage to the Common Area and the Common Easements for which the Owner is responsible under Paragraph 3.4 above. Without limiting the foregoing, the Owners of Townhouse Units shall have sole responsibility for cooperating in the maintenance, repair, and landscaping pertaining to those Units, subject to the right of the Association to supervise and ensure that such maintenance, repair and landscaping is carried out in a manner consistent with the requirements of this Declaration relating to all other Unit Owners.

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Additionally, each Owner, whose Lot is benefitted by an access and/or utility easement designated on the Plat Map shall share equally the responsibility for the maintenance of such easement area with all other Lots so benefitted.

END OF ARTICLE 5  
REPAIR AND MAINTENANCE

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ARTICLE 6

ASSOCIATION MAINTENANCE FUNDS AND ASSESSMENTS

6.1 Creation of the Lien and Personal Obligation of Assessments.

The Declarant, for each Unit owned within the Project, hereby covenants, and each Owner of any Unit by acceptance of a deed or contract therefor, whether or not it shall be so expressed in such deed or contract, is deemed to covenant and agree to pay to the Association the following Assessments, which shall be established and collected as provided herein and in the Bylaws of the Association:

6.1.1 Regular Assessments;

6.1.2 Extraordinary Assessments; and

6.1.3 Special Assessments.

All Assessments, together with interest, costs, and actual attorneys' fees, shall be a charge and a continuing lien upon the Unit against which each Assessment is made. Each such Assessment, together with interest, costs and actual attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Unit at the time when the Assessment fell due. No Owner of a Unit may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Area or the Common Easements or by the abandonment of his Unit.

6.2 Purpose of Assessments.

The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of all the residents in the entire Project, for the improvement and maintenance of the Common Area and the Common Easements, for maintenance of landscaping, and for the common good of the Project. The Regular Assessments shall include an adequate reserve fund for maintenance, repair and replacement of all such items which must be replaced on a periodic basis.

6.3 Regular Assessments.

Until the end of the Association's fiscal year immediately following the closing of the sale of the first Unit in the Project, the annual maximum Regular Assessment per Unit shall be such amount as if set forth in the Project budget prepared by Declarant, payable in monthly installments. Each Unit's share for the first fiscal year shall also be prorated based on the number of months remaining in that fiscal year. Thereafter, the Board shall determine and fix the amount of the maximum annual Regular Assessment against each Unit at least sixty (60) days in

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advance of the start of each fiscal year; provided, however, that the maximum annual Regular Assessment may not be increased by more than ten percent (10%) above the maximum annual Regular Assessment for the immediately preceding fiscal year, without the vote or written assent of two-thirds of the voting power of each class of Members.

### 6.4 Extraordinary Assessments.

In addition to the Regular Assessments authorized above, the Board may levy, in any fiscal year, an Extraordinary Assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area or the Common Easements, including fixtures and personal property related thereto, or to defray any unanticipated or underestimated expense not covered by the Regular Assessment (and, where necessary, for taxes assessed against the Common Area); provided, however, that the aggregate Extraordinary Assessments for any fiscal year shall not exceed five percent (5%) of the budgeted gross expenses of the Association (excluding reserves) for that fiscal year, without the vote or written assent of two-thirds of the voting power of each class of Members.

### 6.5 Special Assessments.

In addition to the Regular and Extraordinary Assessments authorized above, the Board may levy Special Assessments (without limitation as to amount or frequency and without requiring a vote of Owners) against an individual Unit and its Owner to reimburse the Association for costs incurred in bringing that Owner and his Unit into compliance with the provisions of this Declaration and the Bylaws, including actual attorneys' fees and costs. Additionally, a Special Assessment may be levied to assist in the collection of other charges payable to the Association by Unit Owners, such as fees for the use of the RV Parking Area.

### 6.6 Allocation of Assessments; Limited Exemption During Construction.

Each Unit, including Units owned by Declarant, shall bear an equal share of each Regular and Extraordinary Assessment. Declarant and any Builder or other Owner of a Lot which does not include a completed Dwelling shall be exempted from the payment of that portion of any Assessment which is for the purpose of defraying expenses and reserves directly attributable to the existence and use of such Dwelling. However, the exemption shall not apply to that portion of an Assessment which relates to operation, repair, maintenance and insurance of the Common Area and Common Easements, except to the extent such items are subsidized by the Declarant by agreement with the Association. This exemption shall be in effect only until a certificate of occupancy or its equivalent for the Dwelling has been issued or

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until one hundred eighty (180) days after the issuance of a building permit for the Dwelling, whichever first occurs.

### 6.7 Date of Commencement of Assessments; Due Dates.

Subject to the foregoing exemption pending construction, or pursuant to Declarant subsidy, the Regular Assessments provided for herein shall commence as to all Units in the Project on the first day of the month following closing of the sale of the first Unit in the Project. Due dates of Assessments shall be the first day of every calendar month. No notice of such Assessment shall be required other than an annual notice setting forth the amount of the monthly Assessment.

### 6.8 Transfer of Unit by Sale or Foreclosure.

The sale or transfer of any Unit shall not affect any Assessment lien, or relieve the Unit from any liability therefor, whether the lien pertains to payments becoming due prior or subsequent to such sale or transfer. Notwithstanding the foregoing, the sale or transfer of any Unit pursuant to foreclosure or by any deed in lieu of foreclosure of a recorded first mortgage given in good faith and for value shall extinguish the lien of all such Assessments as to payments which became due prior to such sale or transfer (except for Assessment liens arising prior to the recordation of the mortgage). Sale or transfer pursuant to mortgage foreclosure shall not, however, affect the personal liability of the Owner for unpaid assessments. Any Assessments for which the liens are extinguished pursuant to this paragraph shall be deemed to be Common Expenses collectable from all of the Units including the Unit for which the lien was extinguished. In a voluntary conveyance of a Unit, the grantee of the same shall be jointly and severally liable with the grantor for all unpaid Assessments by the Association against the latter up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the Board, setting forth the amount of the unpaid Assessments due the Association, and such grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid Assessments made by the Association against the grantor in excess of the amount set forth in the statement; provided, however, the grantee shall be liable for any such Assessment becoming due after the date of any such statement.

### 6.9 Enforcement of Assessment Obligation; Priorities; Discipline.

If any part of any Assessment is not paid and received by the Association or its designated agent within thirty (30) days after the due date, such Assessment shall thereafter bear interest at the rate of eighteen percent (18%) per annum until paid. Additionally, an automatic late charge of Ten Dollars (\$10.00) shall be assessed and additional Ten Dollar (\$10.00) sums shall

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be assessed for each month from the due date until the Assessment and all interest and late charges are paid. Each unpaid Assessment shall constitute a lien on each respective Unit prior and superior to all other liens except (1) all taxes, bonds, assessments and other levies which, by law, would be superior thereto, and (2) the lien or charge of any first mortgage of record made in good faith and for value. Such lien, when delinquent, may be enforced by sale by the Association, its attorney or other person authorized by this Declaration or by law to make the sale, after failure of the Owner to pay such Assessment, in accordance with the provisions of Idaho law applicable to the exercise of powers of sale in deeds of trust (with the Board having the power to designate a trustee for this purpose), or by judicial foreclosure as a mortgage, or in any other manner permitted by law. The Association, acting on behalf of the Unit Owners, shall have the power to bid for the Unit at the foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. The foreclosing party shall have the right to reduce or eliminate any redemption rights of the defaulting Owner as allowed by law. Suit to recover a money judgment for unpaid Assessments, rent and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same. The Board may impose reasonable monetary penalties including actual attorneys' fees and costs and may temporarily suspend the Association membership rights of a Unit Owner who is in default in payment of any Assessment, after notice and hearing according to the Bylaws.

6.10 Payment of Taxes Assessed Against Common Area or Personal Property of Association.

In the event that any taxes are assessed against the Common Area, or the personal property of the Association, rather than against the Units, said taxes shall be included in the Assessments made under the provisions of this Article, and, if necessary, an Extraordinary Assessment may be levied against the Units in an amount equal to said taxes (regardless of the limitation on Extraordinary Assessments set forth in Paragraph 6.4 above), to be paid in two (2) installments, thirty (30) days prior to the due date of each tax installment.

END OF ARTICLE 6  
ASSOCIATION MAINTENANCE FUNDS AND ASSESSMENTS

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ARTICLE 7  
EASEMENTS AND UTILITIES; COMMON WALLS

7.1 Access, Use, and Maintenance Easements.

Declarant expressly reserves for the benefit of the Owners reciprocal, nonexclusive easements for access, ingress and egress, and for use and enjoyment, over all of the Common Area and all Common Easements, and for the use and enjoyment thereof. Subject to the provisions of this Declaration governing use and enjoyment thereof, the easements may be used by Declarant, its successors, purchasers and all Owners, their guests, tenants and invitees, residing on or temporarily visiting the Property, for walkways, vehicular access and such other purposes reasonably necessary for use and enjoyment of a Unit in the Project.

Declarant also expressly reserves for the benefit of the Board of Managers and all agents, officers and employees of the Association, nonexclusive easements over the Common Area, to perform all other tasks in accordance with the provisions of this Declaration. Such easements over the Common Area shall be appurtenant to, binding upon and shall pass with the title to, every Unit conveyed.

7.2 Encroachments and Utility Easements.

Each Unit within the Property is hereby declared to have an easement over all adjoining Units and the Common Area and the Common Easements for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of any building, or any other cause. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Unit agree that minor encroachments over adjoining Units, the Common Area, or the Common Easements, shall be permitted and that there shall be a valid easement for the maintenance of said encroachments so long as they shall exist.

Declarant also expressly reserves for the benefit of itself and its successors-in-interest and assigns, including the Association, easements over and under the entire Property (together with the right to grant and transfer the same) for the installation, repair, and maintenance of sanitary sewer, water, electric, gas, and telephone lines and facilities, heating and air conditioning facilities, cable or master television antenna lines, drainage facilities, walkways, and landscaping as may be hereafter required to serve the Property. Without limiting the

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generality of the foregoing, Declarant specifically reserves utility easements (and the right to grant the same to a private or public utility) within a ten-foot strip along the edge of each Lot which abuts a Private Road.

7.3 Owners' Rights and Duties With Respect to Utilities.

The rights and duties of the Owners of Units within the Project with respect to utilities shall be as follows:

7.3.1 Whenever sanitary sewer, water, electric, gas, television receiving, or telephone lines or connections are located or installed within the Project, which connections, or any portion thereof, lie in or upon or beneath Lots or Dwellings owned by other than the Owner of a Dwelling served by said connections, the Owners so served shall have the right, and are hereby granted an easement to the full extent necessary therefor, to enter upon the Lots and/or Dwellings or to have the utility companies enter upon the Lots and/or Dwellings in or upon or below which said connections, or any portion thereof lie, to repair, replace and generally maintain said connections as and when necessary.

7.3.2 Whenever sanitary sewer, water, electric, gas, television receiving, or telephone lines or connections are located or installed within the Project, which connections serve more than one Dwelling, the Owner of each Dwelling served by said connection shall be entitled to the full use and enjoyment of such portions of said connections as service his Dwelling.

7.3.3 In the event of a dispute between Owners with respect to the repair or rebuilding of said connections, or with respect to the sharing of the cost thereof, then, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Board, which shall decide the dispute, and the decision of the Board shall be final and conclusive on the parties.

7.4 Water Service. In Declarant's discretion, water shall be provided to all Lots and the Common Area (where required) either by a private water company to be owned and/or controlled initially by the Declarant herein or by the Association, which would own and operate the system for the benefit of all Owners (with the Association reimbursing Declarant for the costs of system development). Each user shall be billed separately for water consumption, and operating entity shall have the right to cause meters to be installed to measure consumption. Further, while the delivery system is initially to be owned privately, the operating entity may, at its option, purchase water from the City of Coeur d'Alene or such other municipality or other private water association for resale to users within the Project, and may also cause the delivery system to be transferred to the City of Coeur d'Alene or another private water association as permitted by law.



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7.5 Owners' Rights and Duties With Respect to Common Walls.

The Owner of any Dwelling which shares a Common Wall with another Dwelling shall be deemed to own the one-half (1/2) of the wall nearest his Dwelling, and shall have an exclusive and perpetual easement over the remainder of the Common Wall for support and maintenance. Any such Common Wall shall be deemed a structural component of the building in which it is located, and shall therefore be maintained by each common and adjoining Owner, subject to the Unit Owner's responsibility to repair damage caused by negligence or willful misconduct as described in Paragraph 3.4.

END OF ARTICLE 7  
EASEMENTS AND UTILITIES; COMMON WALLS

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ARTICLE 8

RESIDENCE AND USE RESTRICTIONS

In addition to all of the covenants contained herein, the use of the Property and each Unit therein is subject to the following:

8.1 Use of Individual Lots.

No structure or building of any kind shall be erected on any Lot other than a single family dwelling for single family residential occupancy only, not to exceed two stories in height, measuring thirty (30) feet maximum from the natural contour at the center of the building position to the ridge line of the structure, with a private garage which must be a minimum size to hold two (2) automobiles. No lot may be subdivided further than the size indicated on the Plat Map.

8.2 Business Use Prohibited.

No trade, craft, business, profession, commercial or manufacturing enterprise or business or commercial activity of any kind shall be conducted or carried on upon any Lot, or within any Dwelling located on a Lot, nor shall any goods, equipment, vehicles, including buses, trucks and trailers of any description, or materials or supplies used in connection with any trade, service or business, wherever the same may be conducted, or any vehicles in excess of 6,000 pounds gross weight (including buses, trucks and trailers of any description) used for private purposes, be kept, parked, stored, dismantled or repaired outside of any Lot, or on any of the Roads.

8.3 Temporary Structures.

No trailer, basement, tent, shack, garage, barn or other outbuilding or any structure of a temporary character erected or placed on the Property shall at any time be used as a residence temporarily or permanently.

8.4 Minimum Dwelling Size.

The ground floor of the main structure of a Dwelling, exclusive of open porches and garages, shall not be less than one thousand (1,000) square feet for a one story Dwelling, nor less than eight hundred (800) square feet for the ground floor area of a Dwelling of more than one story. For purposes of this provision, a Dwelling with a daylight basement shall be considered a Dwelling of more than one story.

8.5 Completion of Construction.

Any Dwelling erected or placed on any Lot shall be completed as to external appearance, including finished painting, within nine (9) months from the date of commencement of construction.

8.6 Building Set-Back and Fence Requirements.

Except by the unanimous consent of all members of the Architectural Committee, all Dwellings and other structures to be placed upon any Lot shall comply with the following minimum set-back requirements:

Main or front street	15 feet
Side street	15 feet
Side lot boundary	5 feet
Rear lot boundary	5 feet

The above minimum set-back requirements shall apply to all Lots within the Project; provided, however, that within a designated Townhouse Cluster, the minimum set-back from the side lot boundaries shall be a total of fifteen (15) feet (both set-backs combined), with a zero (0) set-back permitted on one side. No fence, wall, hedge or mass planting other than foundation planting shall be permitted to extend nearer to any street than the minimum set-back line of the Dwelling as set forth above, except that nothing shall prevent the erection of a necessary retaining wall, the top of which does not extend more than two (2) feet above the finished grade at the back of said retaining wall; provided, however, that no fence, wall, hedge or mass planting shall at any time, where permitted, extend higher than six (6) feet above ground. Fences shall be well constructed of suitable fencing materials and shall be artistic in design and shall not detract from the appearance of the Dwelling located on the Lot or in the opinion of the Architectural Committee be offensive to the other Owners within the Project, and shall be approved by the Architectural Committee.

8.7 Nuisances.

No noxious, illegal, or offensive activities shall be carried on in any Dwelling, or in any part of the Property, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of each of the Owners of his respective Dwelling, or which shall in any way increase the rate of insurance for the Project, or cause any insurance policy to be cancelled or to cause a refusal to renew the same, or which will impair the structural integrity of any building.

8.8 Signs.

Signs advertising Units for sale or rent may be displayed on the appropriate Lot without prior approval of the Board or the

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Architectural Committee, provided that such signs shall be of reasonable and customary size, not to exceed five (5) square feet. Except as expressly permitted by this Paragraph, no signs shall be displayed to the public view on any Dwellings or on any portion of the Property, unless first approved by the Architectural Committee.

### 8.9 Animals.

No animals or birds of any kind shall be raised, bred, or kept in any Dwelling, or on any portion of the Property; except that no more than two (2) usual and ordinary household pets such as domestic dogs, cats, or birds, may be kept, provided that they are not kept, bred or maintained for any commercial purposes, and that they are kept under reasonable control at all times. Any such dog shall be kept on a leash at all times that the dog is in the Common Area. Owners shall prevent their pets from soiling all portions of the Property and in the event a pet does soil a portion of the Property, the Owner or person in control of such pet shall immediately clean up after the pet. The Board may enact reasonable rules respecting the keeping of animals within the Project and may designate certain areas in which animals may not be taken or kept, or may require that specific animals not be allowed on any part of the Property.

### 8.10 Private Roads.

All Private Roads located within the Project are for the use of Association Members on an equal basis, subject to reasonable rules and regulations promulgated in writing by the Association. It shall be the responsibility of each Member to allow maximum ease of pedestrian, bicycle and vehicular ingress and egress over the Private Roads by prohibiting automobile parking in front of garages or in the driveways, alleyways, or Private Roads and allowing no obstruction or barrier on, across or adjacent to sidewalks or paths which would interfere with any other Member's use of the Common Area or access to his Dwelling.

### 8.11 Garbage and Refuse Disposal.

All rubbish, trash and garbage shall be regularly removed from the Property, and shall not be allowed to accumulate thereon. Trash, garbage and other waste shall not be kept except in sanitary containers. All equipment, garbage cans, wood piles, or storage piles shall be kept screened and concealed from view of other Lots or Dwellings and the Common Area.

### 8.12 Radio and Television Antennas.

No alteration to or modification of a central radio or television antenna system or cable television system, whichever is applicable, shall be permitted, and no Owner may be permitted to construct, use, or operate his own external radio, television antenna, or other electronic antenna without the consent of the

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Board. No Citizens Band or other transmission shall be permitted on the Property.

### 8.13 Clothes Lines.

No exterior clothes lines shall be erected or maintained and there shall be no outside laundering or drying of clothes.

### 8.14 Power Equipment and Car Maintenance.

No power equipment, work shops, or car maintenance of any nature whatsoever (other than minor repairs requiring no more than twenty-four (24) hours work) shall be permitted on the Property except with prior written approval of the Board. In deciding whether to grant approval, the Board shall consider the effects of noise, air pollution, dirt or grease, fire hazard, interference with radio or television reception, and similar objections.

### 8.15 Parking.

Parking of boats, trailers, motorcycles, trucks, truck/campers and like equipment shall not be allowed on any part of the Project, except within the RV Parking Area or within the confines of an enclosed garage. No portion of the same may project beyond the enclosed area except under such circumstances, if any, as may be prescribed by written permit approved by the Architectural Committee. If any of the provisions of this Paragraph 8.15 are violated, the Board of the Association may employ a tow truck or other device to remove the vehicle after prior written notice to the Owner of the subject Lot and such Owner shall be responsible for any charges arising therefrom.

### 8.16 No Warranty of Enforceability.

While Declarant has no reason to believe that any of the restrictive covenants contained in this Article 8 or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Unit in the Project in reliance in one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and, by acquiring the Unit agrees to hold Declarant harmless therefrom.

END OF ARTICLE 8  
RESIDENCE AND USE RESTRICTIONS

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## ARTICLE 9

### INSURANCE

#### 9.1 Duty to Obtain Insurance; Types.

The Board shall cause to be obtained and maintained the following policies of insurance:

(a) Hazard Insurance: A "master" or "blanket" type of hazard insurance policy or policies with respect to the Common Area and the Common Easements, protecting against loss or damage by fire and all other hazards that are normally covered by the standard extended coverage endorsement, and all other perils customarily covered for similar types of projects, including those covered by the standard "all risk" endorsement. The hazard policy shall cover one hundred percent (100%) of the current replacement cost of all insured facilities, but excluding land, foundations, excavations or other items normally excluded from insurance coverage. Additionally, the policy shall include the following special endorsements and provisions:

- Agreed amount and inflation guard endorsement, when available;
- Construction code endorsements;
- The requirement that any Insurance Trust Agreement will be recognized;
- A waiver of any right of subrogation against Unit Owners;
- A requirement that the insurance will not be prejudiced by any acts or omissions of individual Unit Owners that are not under the control of the Association; and
- An indication that the policy is a primary policy, even if a Unit Owner has other insurance covering the same loss.

The policy shall name the Association (for the use and benefit of the individual Owners), as the named insured and shall contain the standard mortgage clause, naming the holders of first mortgages (and their successors and assigns) as the mortgagees.

(b) Liability Insurance: A comprehensive general liability insurance policy covering all Common Area, Common Easements, and all public ways and other areas that are under the supervision of the Association. The liability policy shall provide coverage of at least \$1,000,000 for bodily injury and property damage for any single occurrence, covering bodily injury

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and property damage resulting from the operation, maintenance or use of the Common Area and the Common Easements, and any legal liability resulting from lawsuits related to employment contracts to which the Association may be a party.

(c) Fidelity Bonds: If required by a lender under one of the programs described in Paragraph 9.2 below, blanket fidelity bonds for anyone who either handles or is responsible for funds that are held or administered by the Association, whether or not they receive compensation for such services. Any management agent that handles funds for the Association shall also be covered by its own fidelity bond. The bond shall cover the maximum funds that will be in the custody of the Association or its agent at any time while the bond is in force. Additionally, the fidelity bond coverage must at least equal the sum of three (3) months' assessments on all Units in the Project, plus the Association's reserve funds.

### 9.2 Lenders' Requirements.

Notwithstanding any other provisions herein, the Association shall continuously maintain in effect such casualty, flood and liability insurance and fidelity bonds meeting the insurance and bond requirements for similar projects established by the Federal National Mortgage Association ("FNMA"), the Government National Mortgage Association ("GNMA"), The Mortgage Corporation ("TMC"), Veterans Administration ("VA") and/or the Federal Housing Administration ("FHA"), so long as any of them shall be a holder, insurer or guarantor of a mortgage encumbering a Unit within the Project (or an actual Owner of a Unit), except to the extent such coverage is not available or has been waived in writing by FNMA, GNMA, TMC, VA and/or FHA, as applicable.

### 9.3 Waiver of Claim Against Association.

As to all policies of insurance maintained by or for the benefit of the Association and the Owners, the Association and the Owners hereby waive and release all claims against one another, the Board of Directors and Declarant, to the extent of the insurance proceeds available, whether or not the insurable damage or injury is caused by the negligence of or breach of any agreement by any of said persons.

### 9.4 Right and Duty of Owners to Insure.

It is the responsibility of each Owner to provide hazard insurance on his or her Dwelling, and on his or her personal property and upon all other property and improvements within his Lot. Nothing hereby shall preclude any Owner from carrying any public liability insurance as he or she deems desirable to cover his or her individual liability for damage to persons or property occurring within his or her individual Lot or elsewhere upon the Property. Such policies shall not adversely affect or diminish

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any liability under any insurance obtained by or on behalf of the Association, and duplicate copies of such other policies shall be deposited with the Board upon request. If any loss intended to be covered by insurance carried by or on behalf of the Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by him to the Association to the extent of such reduction, for application by the Board to the same purposes as the reduced proceeds are to be applied.

### 9.5 Notice of Expiration Requirements.

If available, all of the policies of insurance maintained by the Association shall contain a provision that said policy or policies shall not be cancelled, terminated or expired by their terms, without thirty (30) days prior written notice to the Board, Declarant, Owners and their respective first mortgagees (provided that such persons other than the Board have filed written requests with the carrier for such notice) and every other person in interest who requests such notice of the insurer.

### 9.6 Insurance Premiums.

Insurance premiums for any blanket insurance coverage obtained by the Association and any other insurance deemed necessary by the Board of Directors shall be a Common Expense to be included in the Regular Assessments levied by the Association and collected from the Owners. That portion of the Regular Assessments necessary for the required insurance premiums shall be separately accounted for by the Association in the reserve fund to be used solely for the payment of premiums of required insurance as such premiums become due.

### 9.7 Trustee for Policies.

The Association, acting through its Board of Directors, is hereby appointed and shall be deemed trustee of the interests of all named insureds under policies of insurance purchased and maintained by the Association. All insurance proceeds under any such policies as provided for in Paragraph 9.1 above shall be paid to the Board of Managers as trustees. The Board shall have full power to receive and to receipt for the proceeds and to deal therewith as provided herein. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried or otherwise disposed of as provided in this Declaration. The Board is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers, with participation, to the extent they desire, of first mortgagees who have filed written requests within ten (10) days of receipt of notice of any damage or destruction as provided in this Declaration. Any two (2)



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Managers of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on all the named insureds.

END OF ARTICLE 9  
INSURANCE

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## ARTICLE 10

### DESTRUCTION; CONDEMNATION

#### 10.1 Damage to Common Area or Common Easements.

In the event of any destruction of any portion of the Common Area or the Common Easements, the repair or replacement of which is the responsibility of the Association, it shall be the duty of the Association to restore and repair the same to its former condition, as promptly as practical. The proceeds of any insurance maintained pursuant to Article 9 hereof for reconstruction or repair of the Property shall be used for such purpose, unless otherwise provided herein. The Board shall be authorized to have prepared the necessary documents to effect such reconstruction as promptly as practical. The Property shall be reconstructed or rebuilt substantially in accordance with the original construction plans. If the amount available from the proceeds of such insurance policies for such restoration and repair is inadequate to complete the restoration and repair, the Board shall levy an Extraordinary Assessment for the deficiency and proceed with such restoration and repair.

#### 10.2 Damage to Dwellings.

In the event of any destruction of any Dwelling or Dwellings, it shall be the duty of the Owner(s) of the Dwelling or Dwellings to restore and repair the same to its/their former condition, as promptly as practical, under the supervision of the Board. The proceeds of any insurance maintained by the Owner for the reconstruction or repair shall be made available for such purpose. The Dwelling or Dwellings shall be reconstructed or rebuilt substantially in accordance with the original construction plans, or with such new plans as may be approved by the Architectural Committee under Article 4 above. If the amount available from the proceeds of such insurance policies for such restoration and repair is less than the estimated cost of restoration and repair, the Owner(s) of the Dwelling or Dwellings shall be responsible for the deficiency, and the Board shall have the power to levy a Special Assessment to secure payment of the deficiency. In the event more than one Dwelling is damaged or destroyed, the available insurance proceeds shall be allocated according to the estimated costs of repair and restoration of each Dwelling.

#### 10.3 Alternate Plans for Restoration and Repair.

Notwithstanding the provisions of Paragraphs 10.1 and 10.2, the Association shall have the right, by a vote of two-thirds (2/3) of the voting power of each class of membership of the Association, to make alternate arrangements respecting the repair, restoration or demolition of the damaged portion of the Property. The alternate plan may provide for special allocation

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of insurance proceeds, modification of design, or special allocation of any necessary Assessments. Any plan adopted pursuant to this subparagraph shall be adopted within sixty (60) days of the damage or destruction and shall be supported by the vote of any Owner whose Dwelling has been physically damaged (to the extent of any modification required to such Dwelling).

### 10.4 Appraisal of Damage.

In the event the parties affected by damage or destruction to the Property cannot agree, within twenty (20) days of the date of the damage, on the estimated cost of repair or the allocations referred to in this Article 10, the Association shall appoint three (3) independent appraisers having at least five (5) years full-time appraisal experience in Kootenai County, Idaho, to appraise the damage and establish allocations among various damaged portions of the Property. Within twenty (20) days after the selection of the appraisers, a majority of the appraisers shall set the estimates and allocations. If a majority of the appraisers are unable to agree within the stipulated period of time, the average of the three (3) appraisals shall be utilized. If, however, the low appraisal and/or the high appraisal are/is more than fifteen percent (15%) lower and/or higher than the middle appraisal, the low appraisal and/or the high appraisal shall be disregarded. If only one appraisal is disregarded, the average of the two remaining appraisals shall be utilized. If both the low appraisal and the high appraisal are disregarded, the middle appraisal shall be utilized. The cost of the appraisals required by this subparagraph shall be paid by the Association and reimbursed by the Owners whose Property has been damaged through a Special Assessment.

### 10.5 Interior Damage.

Restoration and repair of any damage to the interior of any individual Dwelling, including without limitation all fixtures, cabinets and improvements therein, together with restoration and repair of all interior pain, wall coverings and floor coverings, shall be made by and at the individual expense of the Owner of the Dwelling so damaged.

### 10.6 Condemnation.

The taking or partial taking of any Lot or the Common Area by condemnation or threat thereof shall be negotiated by the party whose property is affected thereby, and such party shall be entitled to receive all compensation paid by the condemning authority. In the event of a taking or partial taking of the Common Area, the Board shall be authorized to negotiate the condemnation award, which shall be deposited in the general funds

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of the Association, subject to disbursement or other use according to an agreement supported by two-thirds (2/3) of the voting power of each class of membership of the Association.

END OF ARTICLE 10  
DESTRUCTION; CONDEMNATION

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ARTICLE 11

DECLARANT'S RIGHTS AND RESERVATIONS

Declarant is undertaking the work of construction of the Project and the creation of the planned unit development on the Property. The completion of that work and the sale or other disposition of the Units is essential to the establishment and welfare of the Property as a residential community. In order that said work may be completed and said Property be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

11.1 Prevent Declarant, or any Builder, or their contractors or subcontractors from doing on the Property, whatever is reasonably necessary or advisable in connection with the completion of the work; or

11.2 Prevent Declarant or any Builder or their representatives from erecting, constructing and maintaining on any part or parts of the Property, such structures as may be reasonable and necessary for the conduct of their business of completing said work and establishing said Property as a residential community and disposing of the same in parcels by sale or other disposition; or

11.3 Prevent Declarant or any Builder from maintaining such sign or signs on any of the Property as may be necessary for the sale or disposition thereof.

So long as Declarant, or any Builder or their successors-in-interest and assigns, owns one or more of the Units established and described in this Declaration and except as otherwise specifically provided herein, Declarant and all Builders, and their successors and assigns, shall be subject to the provisions of this Declaration.

In the event Declarant shall convey all of its right, title and interest in and to the Property to any partnership, individual or individuals, corporation or corporations, then and in such event, Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such partnership, individual or individuals, corporation or corporations, shall be obligated to perform all such duties and obligations of the Declarant.

END OF ARTICLE 11  
DECLARANT'S RIGHTS AND RESERVATIONS

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ARTICLE 12

RIGHTS OF MORTGAGEES

In order to induce various lenders and lending agencies, including without limitation, The Mortgage Corporation ("TMC"), the Government National Mortgage Association ("GNMA"), and the Federal National Mortgage Association ("FNMA"), the Veterans Administration ("VA") and/or the Federal Housing Administration ("FHA") to participate in the financing of the sale of Units within the Project, this Article 12 is included in this Declaration. To the extent these added provisions, pertaining to the rights of such lenders and lending agencies conflict with any other provisions of this Declaration or any other of the Project Documents, these added restrictions shall control. For purposes of this Article 12, the terms "Eligible Holder" and "Eligible Insurer or Guarantor" refer to a Holder, Insurer or Guarantor of any first Mortgage on a Unit, who has provided a written request to the Association, to be notified of any proposed amendment or action described in Paragraph 12.5 or Paragraph 12.6 below.

12.1 Notwithstanding any other provision of Project Documents, no amendment or violation of the Project Documents shall operate to defeat or render invalid the rights of any mortgagee of a Unit made in good faith and for value, provided that after the foreclosure of any such mortgage, such Unit shall remain subject to the Project Documents.

12.2 Each first mortgagee of a mortgage encumbering any Unit, which obtains title to such Unit pursuant to judicial foreclosure or the powers provided in such mortgage, shall take title to such Unit free and clear of any claims for unpaid Assessments or charges against such Unit which accrued after the time such mortgagee recorded its mortgage, and prior to the time such mortgagee acquires title to such Unit.

12.3 First mortgagees, upon written request, shall have the right to (1) examine the books and records of the Association during normal business hours; (2) require from the Association the submission of annual audited financial reports and other financial data; (3) receive written notice of all meetings of the Owners; and (4) designate, in writing, a representative to attend all such meetings.

12.4 Each Owner hereby authorizes the first mortgagee of a first mortgage on his Unit to furnish information to the Board concerning the status of the first mortgage and the loan which it secures.

12.5 Unit Owners shall have the right to amend the Project Documents in accordance with Article 13 below, subject to the rights of Eligible Holders to participate in the amendment process as provided in this Paragraph. Amendments of a material nature shall be agreed to by (i) the Declarant, while an Owner;

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(ii) Unit Owners representing at least sixty-seven percent (67%) of the total allocated votes in the Association (other than Declarant); and (iii) Eligible Holders representing at least fifty-one percent (51%) of the votes of Units that are subject to mortgages held by Eligible Holders. A change to provisions within the Project Documents which pertain to any of the following matters would be considered as material, and therefore subject to the above voting requirements:

- Voting rights;
- Assessments, assessment liens, or subordination of assessment liens;
- Reserves for maintenance, repair and replacement of Common Area or Common Easements;
- Responsibility for maintenance and repairs;
- Reallocation of interests in the Common Area, or rights to its use;
- Boundaries of any Lot;
- Convertibility of Lots into Common Area or Common Easements or vice versa;
- Expansion or contraction of the Project, or the addition, annexation or withdrawal of property to or from the Project;
- Insurance or fidelity bonds;
- Leasing of Units;
- Imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit;
- A decision by the Association to establish self-management when professional management had been previously required by an Eligible Holder;
- Restoration or repair of the Project (after a hazard damage or partial condemnation) in a manner other than that specified in the Project Documents;
- Any action to terminate the legal status of the Project after substantial destruction or condemnation (when Unit Owners are considering termination of the legal status of the Project for reasons other than substantial destruction or condemnation, approval must be obtained from Eligible Holders representing at least sixty-seven percent (67%) of the votes of Units that are subject to mortgages held by Eligible Holders); or

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- Any provisions that expressly benefit mortgage holders, insurers or guarantors.

If the Association determines that an addition or amendment to the Project Documents is not a material change, the approval of Eligible Holders shall be implied by the failure of an Eligible Holder to submit a response to a written proposal for an amendment within thirty (30) days after the proposal is made.

12.6 Each Eligible Holder and each Eligible Insurer or Guarantor is entitled to timely written notice of the following:

Any condemnation or casualty loss that affects either a material portion of the Project or the Unit securing its mortgage;

Any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of any Unit on which it holds the mortgage;

A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and

Any proposed action that requires the consent of a specified percentage of Eligible Holders.

In addition to the foregoing, the Board shall have the power and authority, without the vote of the Association, to enter into such contracts or agreements on behalf of the Association as are required in order to satisfy the guidelines of the VA, FHA, TMC, the FNMA or the GNMA or any similar entity, so as to allow for the purchase, guaranty or insurance, as the case may be, by such entities of first mortgages encumbering Units. Each Owner hereby agrees that it will benefit the Association and the membership of the Association, as a class of potential mortgage borrowers and potential sellers of their residential Units, if such agencies approve the Property as a qualifying Project under their respective policies, rules and regulations, as adopted from time to time.

END OF ARTICLE 12  
RIGHTS OF MORTGAGEES



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ARTICLE 13

DURATION AND AMENDMENT

13.1 Duration.

This Declaration shall continue in full force for a term of fifty (50) years from the date hereof, after which time the same shall be automatically extended for successive periods of ten (10) years, unless a Declaration of Termination is recorded, meeting the requirements of an amendment to this Declaration as set forth in Paragraph 13.2. There shall be no severance by sale, conveyance, encumbrance or hypothecation of an interest in any Unit from the concomitant membership of the Association, as long as this Declaration shall continue in full force and effect.

13.2 Amendment.

Notice of the subject matter of a proposed amendment to this Declaration in reasonably detailed form shall be included in the notice of any meeting of the Association at which a proposed amendment is to be considered. A resolution adopting a proposed amendment may be proposed by an Owner at a meeting of the Members of the Association. The resolution shall be adopted by the vote, in person or by proxy, or written consent of Members representing not less than two-thirds (2/3) of each class of membership of the Association.

Notwithstanding the foregoing, the following special voting provisions shall apply:

(a) Amendments of a material nature shall be enacted in compliance with the provisions of Article 12 of this declaration;

(b) The percentage of the voting power necessary to amend a specified provision of this Declaration shall be not less than the percentage of affirmative votes prescribed for action to be taken under that provision;

A certificate, signed and sworn to by two (2) officers of the Association, that the record Owners of the required number of Units have either voted for or consented in writing to any amendment adopted as provided above, when recorded, shall be conclusive evidence of that fact. The Association shall maintain in its files the record of all such votes or written consents for a period of at least four (4) years. Such a certificate reflecting any amendment which requires the written consent of any of the record holders of first mortgages shall be signed and sworn to by such first mortgagees.

END OF ARTICLE 13  
DURATION AND AMENDMENT

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## ARTICLE 14

### GENERAL PROVISIONS

#### 14.1 Enforcement.

The Board, any Owner, and any governmental or quasi-governmental agency or municipality having jurisdiction over the Project shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by this Declaration, and in such action shall be entitled to recover costs and reasonable attorneys' fees as are ordered by the Court. Any such action by the Board shall be taken on behalf of two (2) or more Unit Owners, as their respective interests may appear, with respect to any cause of action relating to the Common Area or more than one Unit. Failure by any such person or entity to enforce any such provision shall in no event be deemed a waiver of the right to do so thereafter.

#### 14.2 Invalidity of Any Provision.

Should any provision of this Declaration be declared invalid or in conflict with any law of the jurisdiction where the Project is situated, the validity of all other provisions shall remain unaffected and in full force and effect.

#### 14.3 Conflict of Project Documents.

If there is any conflict among or between the Project Documents, the provisions of this Declaration shall prevail; thereafter, priority shall be given to Project Documents in the following order: Plat Map; Articles; Bylaws; and rules and regulations of the Association. Notwithstanding the foregoing, any provision in any of the Project Documents which is for the protection of mortgagees shall have priority over any inconsistent provision in that document or in any other Project Document.

END OF ARTICLE 14  
GENERAL PROVISIONS

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ARTICLE 15

ANNEXATION

15.1 Methods of Annexation.

Additional parcels may be annexed to the Property and become subject to this Declaration by either of the following methods:

(a) Annexation Pursuant to Plan. At any time within ten (10) years following the date of recordation of this Declaration, Declarant may record one or more Declarations of Annexation, describing all or a portion of the property described on Exhibit "B" attached hereto and incorporated herein by this reference, which property shall then be deemed a part of the Project. A Declaration of Annexation may contain such supplementary conditions pertaining to the annexed parcel as may be reasonably necessary to provide for any different characteristics of the annexed parcel.

(b) Annexation Pursuant to Approval. Upon the vote or written assent of Declarant (while Declarant is an Owner) and of two-thirds (2/3) of the total voting power residing in Members of the Association other than Declarant, the Owner of any property who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may record a Declaration of Annexation in the manner described in the preceding Paragraph.

15.2 Effect of Annexation.

Upon annexation of additional property, the annexed parcel shall become subject to this Declaration without the necessity of amending individual sections hereof. The Common Area of the new property shall be conveyed lien-free to the Association, and Owners of Units in the new property will become Members of the Association, with Assessment obligations being prorated to the date of annexation.

15.3 De-annexation of Parcels.

Any property annexed to the Property pursuant to the plan of Declarant, in accordance with Paragraph 15.1 above, may be de-annexed by Declarant and removed from the Project and the jurisdiction of this Declaration and the Association at any time by the recordation of an appropriate Declaration of De-annexation; provided that such de-annexation shall take place (1) before any Unit in the subsequent Phase has been sold by Declarant to a member of the general public; and (2) before any vote has been exercised on behalf of any such Unit.

END OF ARTICLE 15  
ANNEXATION

1149697

EXECUTED AND EFFECTIVE this 12 day of May, 1989.



DECLARANT:

GARY LOW INVESTMENTS, INC.

By *Gary Low*  
GARY LOW, President

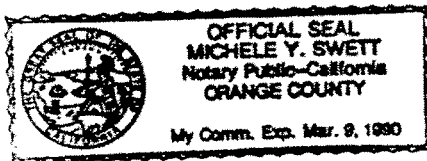
STATE OF California)  
                                  :ss.  
County of Orange )

On this 12th day of May, 1989, before me, Michele Y. Swett, a Notary Public in and for the State of California, personally appeared GARY LOW, known or identified to me to be the President of GARY LOW INVESTMENTS, INC., the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal hereto affixed the day and year first above written.

*Michele Swett*

Notary Public for Orange County, Califor  
Residing at Santa Ana, Ca.  
Commission Expires March 9, 1990





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EXHIBIT "A" TO DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
AND RESERVATION OF EASEMENTS FOR  
ARMSTRONG PARK

Legal Description of Property (Phase I only):

All property contained within the plat of  
Armstrong Park PUD, as recorded April ~~21~~ **MAY 26 1989**  
1989, in Book F, pages 236, 231A of plats, as  
Document No. 1149696 ~~236~~ records of  
Kootenai County, Idaho.

Legal Description of Common Area:

Recreation Area: That property identified by  
a circled "B" on the plat of Armstrong Park  
PUD, as recorded ~~MAY 21 1989~~ **MAY 26 1989** 1989, in  
Book F, pages 236, 231A of plats, as Document  
No. 1149696 ~~236~~ records of Kootenai  
County, Idaho.

Open Area: That area designated as circled  
"C1," "C2," and "C3" on the plat of Armstrong  
Park PUD, as recorded ~~MAY 21 1989~~ **MAY 26 1989** 1989, in  
Book F, pages 236, 231A of plats, as Document  
No. 1149696 ~~236~~ records of Kootenai  
County, Idaho.

RV Parking Area: That area designated as  
circled "D" on the plat of Armstrong Park  
PUD, as recorded ~~MAY 21 1989~~ **MAY 26 1989** 1989, in  
Book F, pages 236, 231A of plats, as Document  
No. 1149696 ~~236~~ records of Kootenai  
County, Idaho.

Private Roads: Those roadways designated by  
circled "A" on the plat of Armstrong Park  
PUD, as recorded ~~MAY 21 1989~~ **MAY 26 1989** 1989, in  
Book F, pages 236, 231A of plats, as Document  
No. 1149696 ~~236~~ records of Kootenai  
County, Idaho.

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Legal Description of Townhouse Clusters:

Lots 5 through 8, inclusive, Block 1; and  
Lots 1 through 4, inclusive, Block 3, on the  
plat of Armstrong Park PUD, as recorded  
April 6, 1989, in Book F, pages ~~236~~ <sup>236A</sup> of  
MAY 26 1989  
plats, as Document No. 1149696 ~~236B~~  
records of Kootenai County, Idaho.

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EXHIBIT "B" TO DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
AND RESERVATION OF EASEMENTS FOR  
ARMSTRONG PARK

Legal Description of Potential  
Annexation Property

The South 100 feet of Government Lot 1,  
Section 20, Township 50 North, Range 3  
W.B.M., Kootenai County, State of Idaho and a  
portion of the Southwest quarter of the  
Northwest quarter of Section 20, Township 50  
North, Range 3 W.B.M., Kootenai County,  
Idaho, more particularly described as  
follows:

Beginning at the West quarter corner of said  
Section 20; thence

North 2°23'31" West, 1180.98 feet along the  
West line of said Section 20 to a point on  
the North right of way line of an existing  
roadway and the TRUE POINT OF BEGINNING for  
this description; thence

proceeding along the North right of way line  
of the existing roadway, South 69°16'37"  
East, 330.73 feet; thence

47.22 feet around a circular curve to the  
left, said curve having a radius of 70 feet,  
a central angle of 38°38'53", a chord length  
of 46.33 feet and a chord bearing of South  
88°36'03" East; thence

North 72°04'30" East, 290.11 feet; thence

337.90 feet around a circular curve to the  
right, said curve having a radius of 130 feet  
a central angle of 148°55'26", a chord length  
of 250.50 feet and a chord bearing of South  
33°27'47" East; thence

48.98 feet around a circular curve to the  
left, said curve having a radius of 70 feet,  
a central angle of 40°05'41", a chord length  
of 47.99 feet and a chord bearing of South  
20°57'04" West; thence



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South 0°54'15" West, 53.51 feet; thence

188.03 feet around a circular curve to the left, said curve having a radius of 70 feet, a central angle of 153°54'15", a chord length of 136.39 feet and a chord bearing of South 76°02'55" East; thence

EXCEPTING THEREFROM a portion of the Southwest quarter of the Northwest quarter of Section 20, Township 50 North, Range 3 W.B.M., Kootenai County, Idaho, more particularly described as follows:

BEGINNING at the West quarter corner of said Section 20;  
thence North 2°23'31" West, 1180.98 feet along the West line of said Section 20 to a point on the North right of way line of an existing roadway and the True Point of Beginning for this description;  
thence proceeding along the North right of way line of the existing roadway, South 69°16'37" East, 330.73 feet;  
thence 47.22 feet around a circular curve to the left, said curve having a radius of 70 feet, a central angle of 38°38'53", a chord length of 46.33 feet and a chord bearing of South 88°36'03" East;  
thence North 72°04'30" East 290.11 feet;  
thence 337.90 feet around a circular curve to the right, said curve having a radius of 130 feet, a central angle of 148°55'26", a chord length of 250.50 feet and a chord bearing of South 33°27'47" East;  
thence 48.98 feet around a circular curve to the left, said curve having a radius of 70 feet, a central angle of 40°05'41", a chord length of 47.99 feet and a chord bearing of South 20°57'04" West;  
thence South 0°54'15" West, 53.51 feet;  
thence 188.03 feet around a circular curve to the left, said curve having a radius of 70 feet, a central angle of 153°54'15", a chord length of 136.39 feet and a chord bearing of South 76°02'55" East;  
thence North 27°00'00" East, 146.47 feet;  
thence North 32°34'18" East, 80.77 feet;  
thence North 57°25'42" West, 20.00 feet;  
thence 48.48 feet around a circular curve to the left, said curve having a radius of 50 feet, a central angle of 55°33'33", a chord length of 46.61 feet and a chord bearing of North 4°47'30" East;

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thence North 22°59'15" West, 43.59 feet;  
thence 401.14 feet around a circular curve to  
the right, said curve having a radius of 150  
feet, a central angle of 153°13'32", a chord  
length of 291.85 feet and a chord bearing of  
North 53°37'29" East;  
thence proceeding along the North right of  
way line of the existing well road, North  
76°19'16" East, 60.62 feet;  
thence 62.53 feet around a circular curve to  
the left, said curve having a radius of 47.77  
feet, a central angle of 75°00'00", a chord  
length of 58.16 feet and a chord bearing of  
North 38°49'16" East to a point on the South  
line of Government Lot 1, said point lying  
45.00 feet West of the Southeast corner of  
said Government Lot 1;  
thence North 88°40'44" West, 1302.79 feet  
along the South line of said Government Lot 1  
to the Southwest corner of said Government  
Lot 1;  
thence South 2°23'31" East, 189.81 feet along  
the West line of said Section 20 to the True  
Point of Beginning and including the south  
100 ft. of Government Lot No. 1, Section 20,  
T50N, R3W, B.M., Kootenai County, Idaho.

Also excepting therefrom all property  
described in the initial Armstrong Park PUD,  
described on Exhibit "A" above.

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DECLARATION OF

CLARIFICATION AND UPDATE OF THE  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
AND RESERVATION OF EASEMENTS

STATE OF IDAHO }  
COUNTY OF KOOTENAI } SS  
AT THE REQUEST OF APHA

AUG 30 2 19 PM '00

FOR

GABRIEL J. ENGLISH

ARMSTRONG PARK

DEPUTY JS  
FEES \$ 15.00

A PLANNED UNIT DEVELOPMENT

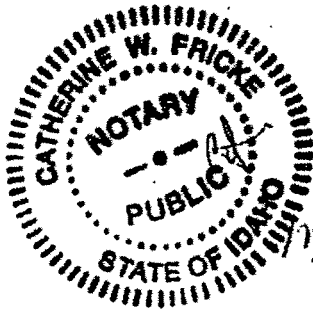
COEUR D'ALENE, IDAHO

The following clarifications of the Armstrong Park Covenants, Conditions, and Restrictions, dated May 26, 1989, Book F, pages 236-236A, Document No. 1149697, were submitted to the Armstrong Park Board of Directors and were approved on July 6, 2000.

*[Signature]*  
\_\_\_\_\_  
President, Board of Directors  
August 30, 2000

Subscribed and Sworn to (as affirmed)  
before this 30<sup>th</sup> day of August 2000.

*[Signature]*  
\_\_\_\_\_  
Notary Public Catherine W. Fricke  
Notary Public



My Commission Expires on 10-12-04

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May 1, 2000

To Whom It May Concern: The following clarifications of the Armstrong Park CC&Rs, dated May 26, 1989, Book F, pages 236-236A, Document No. 1149697, have been submitted to the Armstrong Park Board and are approved. Items that are underlined reflect updates or clarifications:

## CLARIFICATION AND UPDATE OF CC&Rs

### ARTICLE 4 (p. 11), ARCHITECTURAL CONTROL:

#### 4.1 Architectural Committee

The Architectural Committee shall consist of four (4) or more members. (Omit all other lines except the last: All members shall be appointed by the Board.) (Outdated lines omitted.)

#### 4.2 Prohibition of Alteration and Improvement

Subject to exemption of the Declarant hereunder, no structure, improvement, or alteration of any kind (which will be visible from other Dwellings, the Common Area, or any public right of way) shall be commenced, erected, painted, or maintained upon the Property, until the same has been approved in writing by the Architectural Committee.

#### 4.3 Plans and Approval

The Architectural Committee shall make available to all Owners within the Project (at the Owner's expense for copying) a set of rules and guidelines to assist Owners in preparing plans under this Article 4. The rules and guidelines shall not be binding upon the Committee, but shall set forth general criteria to be considered by the Committee in evaluating a particular application for architectural approval.

Plans and specifications showing the nature, kind, shape, color, size, materials, and location of any such structure, improvement, or alteration shall be submitted to the Committee for approval as to quality of workmanship and design and harmony of external design with existing structures, and as to location in relation to placement on the lot, surrounding structures, topography, and finish grade elevation. In addition, all plans and specifications of any such structure submitted shall address the preservation and protection of natural drainage and shall be accompanied with a State of Idaho Certified Engineer's Soils Testing Report on the subject Lot and subsequent stamp of approval on all footings and foundation specifications. No permission or approval shall be required to rebuild in accordance with Declarant's original plans and specifications, or to rebuild in accordance with plans and specifications previously approved by the Committee.

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The Committee shall consider and act upon any and all plans and specifications submitted for its approval under this Article and perform such other duties as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with plans approved by the Committee. Any application submitted to the Committee pursuant to this Article shall be deemed approved, unless written disapproval or a request for additional information or materials by the Committee shall have been transmitted to the applicant within twenty-five (25) days after the date of receipt by the Committee of all required materials.

#### **4.4 Non-Liability of Committee Members**

Neither the Architectural Committee nor any member thereof shall be liable to the Association, or to any Owner for any loss, damage, or injury arising out of or in any way connected with the performance of the Committee's duties hereunder unless due to the willful misconduct or bad faith of the Committee. The Committee shall review and approve or disapprove all plans submitted to it for any proposed structure, improvement, or alteration solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and the Project generally with consideration of color, style, size, proximity to the street, location on the lot, and height, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes.

#### **4.5 Non-compliance**

If applicant or project owner does not follow procedures or does not solicit the Architectural Committee's approval regarding new construction, or if he changes the color of the exterior without Committee approval, or if he makes other than minor changes to the visible exterior (including visible fences and decks) without the Architectural Committee's approval, the Homeowners' Assn. may lien the property in proportion to the offense.

#### **4.6 Integration with Neighborhood**

The Architectural Committee may disapprove any home whose design or size does not meet the conditions of the CC&R's regarding integration with the neighborhood. (See para. 4.3 re "design and harmony" and "location...to surrounding structures," and para. 4.4 re "aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity...")

### **ARTICLE 5 (p. 13), REPAIR AND MAINTENANCE**

Add to paragraph 1: Exterior maintenance involves keeping lawns mowed to a reasonable height, not allowing litter to accumulate in visible areas, and not allowing non-operating or disabled vehicles on visible property. Add to paragraph 2, after "landscaping": This assumes the parts of the lot that are visible from the street have been reasonably landscaped within six months of move-in.

### **ARTICLE 8 (p. 22), RESIDENCE AND USE RESTRICTIONS**

#### **8.1 Use of Individual Lots**

No structure or building of any kind shall be erected on any Lot other than a single-family dwelling for single family residential occupancy only, not to exceed two stories in height, measuring thirty (30) feet

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maximum from the natural contour at the center of the building position to the ridge line of the structure, with a private garage which must be a minimum size to hold two (2) automobiles. No lot may be subdivided further than the size indicated on the Plat Map.

## 8.2 Business Use Prohibited

No trade, craft, business, profession, commercial or manufacturing enterprise, or business or commercial activity of any kind shall be conducted or carried on upon any Lot, or within any dwelling located on a Lot, nor shall any goods, equipment, vehicles, including buses, trucks and trailers of any description, or materials or supplies used in connection with any trade, service, or business, wherever the same may be conducted, or any vehicles in excess of 6,000 pounds gross weight (including buses, trucks and trailers of any description) used for private purposes, be kept, parked, stored, dismantled, or repaired outside of, or on, any Lot, or on any of the roads. Failure to abide by written notification to cease such activities can result in a lien against the property and/or monthly fines until the deficiency is corrected, as determined by the Board.

## 8.3 Temporary Structures

No trailer, basement, tent, shack, garage, barn, or other outbuilding or any structure of a temporary character shall be erected or placed on the property or shall at any time be used as a residence temporarily or permanently. Failure (see above)...

## 8.4 Minimum Dwelling Size

The ground floor of the main structure of a dwelling, exclusive of open porches and garages, shall not be less than one thousand (1,000) square feet for a one-story Dwelling, nor less than eight hundred (800) square feet for the ground floor area of a dwelling of more than one story. For purposes of this provision, a dwelling with a finished daylight basement shall be considered a dwelling of more than one story.

## 8.5 Completion of Construction

Any dwelling erected or placed on any Lot shall be completed as to external appearance, including finished painting, visible decks/porches (as approved by the Architectural Committee in the original plans), and final driveway (as approved by the city), within nine (9) months from the date of commencement of construction. Construction materials, including debris, shall be removed within these nine (9) months. Any community road adjacent to the construction site must be cleaned up to original condition before move-in and/or completion of construction. No construction materials, including concrete and piles of debris, shall be stored or left on other's property, including property belonging to the Association and any roads. Failure to adhere to item 8.5 could result in a lien being filed again the property or fines, etc.

## 8.6 Building Set-Back and Fence Requirements

Except by the unanimous consent of all members of the Architectural Committee, all dwellings and other structures to be placed upon any lot shall comply with either the set-back requirements of Armstrong Park or those of the City, whichever is greater, as determined by the Architectural

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Committee. (See p. 23 for rest of text.) The last line should read: Road-visible fences must be approved by Architectural Committee and shall be well constructed, etc.

### 8.7 Nuisances

Add: Failure to adhere, etc.

### 8.9 Animals

Add: Pets are not to be taken on clubhouse grounds, including the pool area. Failure to adhere to these regulations could result in involvement of the city, including court action, in compliance with city law.

### 8.11 Garbage and Refuse Disposal

Add: Consistent refusal to adhere to written notification regarding abuses could result in monthly fines being placed against the property until the deficiency is corrected.

### 8.15 Parking

Parking of boats, trailers, motorcycles, utility trucks, truck/campers, general recreational vehicles, and like equipment shall not be allowed on any part of the project, except RV vehicles only shall be parked within the RV Parking Area, and any vehicles may be parked within the confines of an enclosed garage. No portion of vehicles may project beyond the enclosed area except under such circumstances, if any, as may be prescribed by written permit approved by the Architectural Committee. The only vehicles allowed in the RV Parking area are recreational vehicles and shall not include disabled vehicles, cars, trucks, work vehicles, and other non-RV vehicles or material, as determined by the Board. The Board may determine what is an RV on a case-by-case basis if there are questions. If any of the provisions of this Paragraph 8.15 re vehicles in the RV storage or on streets are violated, the Board may employ a tow truck or other device to remove the vehicle after prior written notice to the owner of the subject Lot and such owner shall be responsible for any charges arising from towing and/or storage. Failure to remove non-compliant vehicles from owner's property after written notification could result in monthly fines being placed by the Board against the property until the deficiency is corrected.