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**DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS**

FOR

AMBERWOOD SUBDIVISION

Boise City, Idaho

August, 2003

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND
EASEMENTS FOR AMBERWOOD SUBDIVISION - 1**

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Drainage Facilities Operation & Maintenance Manual

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**DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
THE AMBERWOOD SUBDIVISION**

THIS DECLARATION is made on the date hereinafter set forth by RK Development, LLC , hereinafter referred to as "Declarant".

Recitals: Declarant is the owner of the following real property in Ada County, State of Idaho, hereinafter sometimes referred to as the "Property":

All of the land within the boundaries of The Amberwood Subdivision, according to the plat thereof recorded in Book _____ of Plats at pages _____, records of Ada County, State of Idaho.

ARTICLE I. DECLARATION

Declarant hereby declares that the Property shall be held, sold and conveyed subject to the following Covenants, Conditions, Restrictions and Easements which are established for the purpose of protecting the value and desirability of, and which shall run with and bind, the Property, and each and every part, parcel and lot thereof, and be binding on all parties having any right, title or interest in the Property or any part, parcel or lot thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE II. DEFINITIONS

As used in this Declaration or in any supplemental Declaration, unless the context otherwise specifies or requires, the following words and phrases shall be defined as follows:

2.1 "Association" shall mean and refer to The Amberwood Homeowners' Association, Inc., a nonprofit corporation organized under the laws of the State of Idaho, or any successor or assign of the corporation.

2.2 "Association Property" shall mean Common Area and Common Facilities and, in addition, such other property as may be owned and operated by the Association for the benefit of the Owners.

2.3 "Common Area" shall mean and refer to The Amberwood Subdivision, and to any Lot or parcel designated as Common Area in a Supplemental Declaration subjecting additional real property to this Declaration or on any recorded plat of the Property. Said areas are intended to be devoted to the common use and enjoyment of the Owners (subject to the provisions hereof) and are not dedicated to the public.

2.4 "Common Driveway" shall mean and refer to those lots within Amberwood Subdivision that have a shared access driveway that serves up to four (4) separate single-family residential parcels, each having public street frontage.

2.5 "Common Facilities" shall mean and refer to those physical improvements constructed by Declarant upon Common Area, or upon the utility easement over each Lot including, without limitation, all street lights, benches, bridges, walkways and pedestrian paths, streams, drainage facilities, and waterways owned or operated by the Association.

2.6 "Declarant" shall mean and refer to RK Development, LLC, its successors and assigns provided that such successor or assign has acquired more than two (2) Lots and that such Lots constitute the remainder of unconveyed Lots owned by Declarant.

2.7 "Declaration" shall mean this Declaration as it may be amended from time to time.

2.8 "Exempt Property" shall mean all properties within the Project which have been dedicated to, and accepted by, a local public authority and all properties and/or any charitable or nonprofit corporation exempt from taxation by the laws of the United States of America, all of which properties shall be exempt from assessments created herein, except that such term shall not include any land or improvements devoted to dwelling use.

2.9 "Lot" shall mean and refer to all Lots within and shown upon any recorded subdivision map of the Property, except Common Areas, and except for streets dedicated to the public as shown upon the recorded plat map.

2.10 "Member" shall mean and refer to any person or entity who is a member of the Association as defined by the Articles and Bylaws of the Association and this Declaration.

2.11 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

2.12 "Project" shall mean and refer to the Property and all contemplated improvements thereto.

2.13 "Property" shall mean and refer to the real property consisting of The Amberwood Subdivision according to the official plat thereof and every part, parcel, and Lot thereof, and shall

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further mean and refer to such additional real property as may hereafter be made subject to this Declaration by Supplemental Declaration, pursuant to the provisions hereof for the annexation of additional parcels of real property.

Whenever the context so requires, the use of the singular shall include the plural, the plural the singular, and the use of any gender shall include all genders.

ARTICLE III. HOMEOWNERS ASSOCIATION

3.1 Formation: It is contemplated that simultaneously with the execution and recordation of this Declaration of Covenants, Conditions, Restrictions and Easements (the "Declaration"), the Association will be incorporated and will adopt Bylaws (the "Bylaws") for its governance. To the extent the Articles of Incorporation or Bylaws of the Association may conflict with the provisions of this Declaration, the provisions of this Declaration shall control.

3.2 Duties of Association. In addition to the powers delegated to it by the Articles, By-Laws and this Declaration, without limiting the generality thereof, the Association or its authorized agents, if any, shall have the obligation to conduct all business affairs of common interest to all Owners and to perform each of the following duties:

(a) Operation and Maintenance of Common Area. Perform, or provide for the performance of, the operation, maintenance and management of the Common Area and landscape easement areas, if any, owned or controlled by the Association, including the repair and replacement of property or improvements thereon damaged or destroyed by casualty loss, the maintenance, repair and replacement of any facilities, if any, installed by the Declarant and/or irrigation district for the delivery of irrigation water to the Lots, and/or the Ada County Highway District for the collection of storm water runoff as identified in the "Amberwood Subdivision Drainage Facilities Operation & Maintenance Manual", and the maintenance, management, repair or replacement all other property owned or controlled by the Association.

(b) Taxes and Assessments. Pay all real and personal property taxes and assessments levied against the Common Area owned or controlled by the Association or against the Association and/or any property owned by the Association. Such taxes and assessments may be contested or compromised by the Association; provided, however, that they are paid or a bond insuring payment is posted prior to the sale or the disposition of any property to satisfy the payment of such taxes. In addition, the Association shall pay all other taxes, federal, state or local, including income or corporate taxes, levied against the Association in the event that the Association is denied the status of a tax exempt corporation.

(c) Utilities. Acquire, provide and/or pay for water, sewer, refuse collection, electrical, telephone, gas, irrigation and other necessary services for the Common Area owned or controlled by the Association.

(d) Insurance. Obtain, from reputable insurance companies authorized to do business in the State of Idaho and maintain, in effect, the following policies of insurances:

(i) Fire Insurance, including those risks embraced by coverage of the type now known as the broad form "All Risk" or special extended coverage endorsement on a blanket agreement amount basis for the full insurable replacement value of all improvement, equipment, fixtures and other property located within the Common Area owned or controlled by the Association, including such equipment, fixtures and other property not located in the Common Area, if the same are used or necessary for the use of the Common Area.

(ii) Comprehensive public liability insurance insuring the Association, the board, officers, the Grantor and the individual Owners and agents and employees of each of the foregoing against any liability incident to the ownership and/or use of the Common Area owned by the Association or easement areas under the control of the Association. The limits of liability of such coverage shall be as determined by the Board of Directors.

(iii) If elected by the Board, full coverage directors and officers liability insurance in an amount determined by the Board.

(iv) Such other insurance, including workman's compensation insurance to the extent necessary to comply with all applicable laws and indemnify, faithful performance, fidelity and other bonds as the Board shall deem necessary or required to carry out the Association's functions or to insure the Association against any loss from malfeasance or dishonesty of any person charged with the management or possession of any Association funds or other property.

(v) The Association shall be deemed a trustee of the interests of all Owners in any insurance proceeds paid to it under such policies, and shall have full power to receive their interests in such proceeds and to deal therewith.

(vi) Insurance premiums for the above insurance coverage shall be deemed a common expense to be included in the Regular Assessments levied by the Association.

(vii) Notwithstanding any other provision here to the contrary, the Association shall continuously maintain in effect such casualty, liability and other insurance and a fidelity bond meeting the insurance and fidelity bond requirements for PUD projects established by Federal National Mortgage Association ("FNMA"), the Governmental National Mortgage Association ("GNMA") and the Federal Home Loan Mortgage Corporation ("FHLMC"), so long as any of which is a Mortgagee or Owner of a Lot within the Property, except to the extent such coverage is not available or has been waived in writing by FNMA, GNMA or FHLMC, as applicable.

(e) Administration Fees – Costs. Pay to the Declarant, so long as the Declarant manages the Association, all actual out-of-pocket costs paid or incurred by the Declarant in the management and administration of the affairs of the Association plus an administrative fee equal

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to six percent (6%) of the total income received by the Association, which administrative fee shall be compensation to the Declarant for the services provided to the Association.

(f) Common Area Drainage Facilities. The Homeowners Association shall perform all duties in conformance with the "Amberwood Subdivision Drainage Facilities Operation & Maintenance Manual" and assess fees as required for the operation and maintenance of the drainage facilities located in Lot 22 of Block 1.

(g) Identification Signs. Maintain, repair and replace all permanent entry and special identification signs for the Property, whether the same be located within or without the boundaries of the Property.

(h) Rule Making. Make, establish, promulgate, amend and repeal Association rules.

(i) Architectural Control Committee. (sometimes referred to as "ACC") Appoint and remove members of the Architectural Control Committee, all subject to the provision of this Master Declaration.

(j) Enforcement of Restrictions and Rules. Perform such other acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce any of the provisions of this Declaration and Association rules.

3.3 Budgets and Financial Statement. Financial statements for the Association shall be regularly prepared copies distributed to each Member as follows:

(a) A pro forma operating statement (budget) for each fiscal year shall be distributed not less than thirty (30) days prior to the beginning of each fiscal year.

(b) Within ninety (90) days after the close of each fiscal year, the Association, or its agent, shall cause to be prepared and delivered to each Owner, a balance sheet as of the last day of the Association's fiscal year and an annual operating statement reflecting the income and expenditures of the Association for that fiscal year.

ARTICLE IV. PROPERTY RIGHTS

4.1 Common Areas & Facilities: Every Owner shall have a right and non-exclusive easement of enjoyment in and to the Common Area and Common Facilities which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) **Rules And Regulations:** The Association shall have the right from time to time to adopt Rules and Regulations regulating the use and enjoyment of the Common Area and Common Facilities including the right to assess fees for the use of any Common Facility;

- (b) **Improvements:** The Association shall have the right, in accordance with its Articles and Bylaws, to borrow money for the purpose of maintaining and improving the Common Area and Common Facilities and in support thereof to mortgage said property, provided that the rights of such mortgagee shall at all times be subordinate to the rights of the Owners under this Declaration;
- (c) **Enforcement:** The Association, the Architectural Control Committee, the Declarant, and any Lot Owner or Owners shall have the right to enforce the provisions of this Declaration as provided for in this Declaration;
- (d) **Suspension:** The Association shall have the right to suspend the voting rights and right to use the Common Area and Common Facilities of any Owner for any period during which any assessment against owner or Owner's Lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;
- (e) **Easements:** The Association shall have the right to grant easements in the Common Area for utilities and similar purposes;
- (f) **Dedication:** The Association shall have the right to dedicate or transfer all or any part of the Common Area or Common Facilities to any public agency, authority or utility for such purposes and subject to such conditions as may be approved by two-thirds (2/3) of the Board of Directors of the Association; and,
- (g) **Delegation:** Any Owner may license or delegate Owner's right of enjoyment of the Common Area and Common Facilities to the members of Owner's family, tenants, or contract purchasers who reside on the Property, subject to the provisions of this Declaration.

4.2 Adjacent Properties: All Owners and prospective owners within this development are to be made aware of the following by these articles:

- (a) **Adjacent church property:** Adjacent church and church sponsored school property shall maintain the right to conduct church related business and conduct school classes and recreational periods outdoors in accordance with established policies and curriculum.

ARTICLE V. RIGHTS RESERVED BY DECLARANT

Notwithstanding anything to the contrary contained in this Declaration, Declarant expressly reserves unto:

- (a) Itself, its employees, successors and assigns, agents, representatives, contractors and their subcontractors and employees, easements and rights-of-way on, over and across all or any part of the streets for vehicular and pedestrian ingress and egress to and from any part of the Property, or any adjacent real property owned by Declarant, or its successors or assigns;

(b) Itself, its employees, successors and assigns, and its agents, representatives, contractors and their subcontractors and employees (including any district, company, unit of local government, association or other entity providing water, sewer, gas, oil, electricity, telephone, cable television, or other similar services), easements, access and rights-of-way on, over, under and across all or part of the Common Area and utility easements on, over and under all Lots and Common Area as provided on any recorded subdivision plat of the Property for installation, use, maintenance and repair of all lines, wires, pipes, pumps, water wells, facilities, and other things necessary for all such services, provided that any installation, maintenance or repair of such lines, wires or pipes shall be performed with reasonable care and that the surface of said easement area shall be restored to the level and condition that existed prior to the doing of work; and

(c) Itself, its employees, agents, representatives, contractors and their subcontractors and employees, and its successors and assigns, the right to use the Common Area and Common Facilities, where applicable, to facilitate and complete the development of the Property, and any Annexed Property, including without limitation the use of the Common Area and Common Facilities, where applicable, for:

- (i) Construction, excavation, grading, landscaping, parking and/or storage;
- (ii) Maintenance and operation of a sales office and model units for sales purposes;
- (iii) The showing to potential purchasers of any unsold Lot, unit or improvements within the Project;
- (iv) Display of signs to aid in the sale of any unsold Lots and units, or all or part of the Project;
- (v) Construction, operation and maintenance of all or any portion of any Common Area or Common Facilities by Declarant, its successors or assigns;

(d) Exemption of Declarant. Nothing herein contained shall limit the right of the Declarant to subdivide or re-subdivide any Lot or Portion of the Property or to grant licenses, reservations, rights-of-way or easements with respect to the Common Area to utility companies, public agencies or others; or to complete excavation, grading and Development to or on any Lot or other portion of the Property owned or controlled by the Declarant, or to alter the foregoing and its Development plans and designs, or construct additional improvements as the Declarant deems advisable in the course of Development of the Property. This Declaration shall not limit the right of the Declarant at any time prior to acquisition of title to a Lot by an Owner to establish on that Lot additional licenses, restrictions, reservations, right-of-way and easements to itself, to utility companies and to others, as may from time to time be reasonably necessary. The Declarant need not seek or obtain ACC approval of any improvements constructed or placed

within the Property by the Declarant in connection with the Development of the Property, but this exemption shall not apply to a Building(s) constructed by the Declarant on a Lot owned by the Declarant. The Declarant shall be entitled to the non-exclusive use, without charge, of any Common Area with the marketing of the Lots, to install, place, display and exhibit such signs, banners and other similar items on the Common Areas on and the Lot(s) owned by the Declarant for such a period of time as is reasonably deemed by the Declarant to be necessary.

ARTICLE VI. MAINTENANCE

6.1 Common Area and Common Facilities: Among its other responsibilities, the Association shall be responsible for maintenance of all Common Area and Common Facilities. The Association may employ the services of a manager and other personnel to carry out the management of such responsibilities. Such Common Area and Common Facilities shall be maintained in an operable, neat, landscaped and becoming manner. Common Area within the Property herein above described shall include Lots 1, 2, 22, and 23 of Block 1, and Lots 1, 4, 5 and 12, Block 2 according to the plat of the Property on file in the office of the Recorder of Ada County, Idaho, together with easements and rights-of-way as shown upon the recorded plat for pedestrian paths, streams, drainages, and other waterways of the Association, if any. Common Area and Common Facilities shall also include such other real and personal property as may be conveyed to the Association from time to time by Declarant, or designated by it as Common Area in any Supplemental Declaration.

6.2 Private Property: Owners of Lots shall be responsible for and perform all exterior maintenance upon such Lots and all improvements thereon. In the event an Owner fails to maintain the premises of a Lot and the improvements situated thereon in a manner satisfactory to the Board of Directors of the Association, upon a 2/3 vote of the Board of Directors, the Association shall have the right to give a thirty (30) day written notice of its intended action, and if satisfactory arrangements are not then made by such Owner, the Association shall have the right through its agents, employees and contractors, to enter upon said Lot and to repair, maintain and restore the Lot and the exterior of any improvements located thereon. The cost of such activity shall be added to and become part of the assessment to which such Lot is subject. In the event the Board of Directors declares an emergency by a 3/4 vote, such action to repair, maintain and restore may be taken at any time after written notice is given to the Owner.

ARTICLE VII. USE AND BUILDING RESTRICTIONS

The use of any Lot and the construction of any improvements thereon, shall be subject to the following requirements and restrictions:

7.1 Building Restrictions:

- (a) No building, structure, or improvement shall be constructed, erected, altered or maintained on, nor shall any portion of the Property covered by this Declaration be

used, designed or intended to be used for any purpose other than a single family dwelling, subject to the provisions as to Common Areas and Common Facilities and facilities used in common including schools and daycare centers, utility services and service facilities.

- (b) Each Lot is restricted to a single family dwelling together with usual and appropriate structures, if any, approved by the Architectural Control Committee. Nothing contained in this Declaration shall be construed to prohibit the construction and use of a guest house in conjunction with and as an accessory to the single-family residence constructed on a Lot, provided that such guest house is approved by the Architectural Control Committee, to be used solely as part of the single-family dwelling by a guest, a family member or household employee and not for commercial purposes as a separate rental unit, and is in conformity with applicable zoning ordinances.
- (c) The size, configuration, style and finish of each proposed building or structure on each Lot shall be subject to architectural and aesthetic control pursuant to Section 7.16 of this Article VII and pursuant to Article X hereof. Said Property shall be used in such manner as to be inoffensive to any other property Owners in the Project.
- (d) Water and sewer hookup fees as well as charges for such utility services are the responsibility of the Lot Owner. Owner shall submit to inspection upon connection to the Boise City public sewer system and shall pay monthly sewer charges following connection. This shall constitute a covenant running with the land, and the City of Boise and the Amberwood Home Owners Association are hereby authorized and empowered to bring actions against the Owner for the collection of the charges imposed by each of them respectively and enforcement of the conditions stated herein.

7.2 Minimum Building Size: The dwelling on each Lot shall satisfy the minimum floor area requirement of the Architectural Control Committee, provided, however, that in no event, absent exceptional circumstances deemed worthy by the Architectural Control Committee, shall the required ground floor area be less than the following number of square feet exclusive of garages, patios, breezeways, porches and similar attached or unattached structures, applicable to a dwelling of one story or more than one story in height:

Minimum Ground
Floor Area (in square feet) For:

One story dwelling 900

Two story dwelling 1100 (600 SF minimum on 1st floor)

7.3 Maximum Building Height: No dwelling shall be more than two stories or 35 feet in height. No other structure on a Lot shall be more than six (6) feet in height unless approved in

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writing by the Architectural Control Committee. A basement or daylight basement shall not be counted as a story in determining compliance with this section.

7.4 Building Location: No building, structure, or grade, other than approved fencing, shall be constructed, used, maintained or made on any Lot closer to any exterior line (front, rear or side) of the same Lot than is permitted by the Architectural Control Committee, provided that the setbacks allowed by the committee shall not be less than required by zoning ordinances applicable to the Lot at the time a building permit is issued. At the time this Declaration was recorded, Boise City ordinances required minimum setbacks of 20 feet for the front yard and street side yard, 15 feet for the rear yard, and five feet for side yards. The City of Boise zoning ordinances will govern the minimum setbacks, but required setbacks for a particular Lot shall still be determined by the Architectural Control committee.

For the purpose of this section, eaves, steps, chimneys and gutters shall not be considered as a part of the building; provided, however, that this shall not be construed to permit any eaves, steps, chimneys or gutters or any portion of the building on any Lot to encroach upon any other Lot. Open porches shall not be considered as a part of the building for purposes of this section, but any open porch shall, prior to construction, require the approval of the Architectural Control Committee.

7.5 Building Site; Subdivision: A building site shall consist of at least one (1) Lot, or a parcel composed of more than one Lot. No Lot shall be further subdivided after the initial transfer thereof by Declarant. No parcel composed of more than one Lot conveyed for the purpose of constructing a single family dwelling thereon, shall be subdivided or conveyed other than as a single indivisible parcel unless title thereto reverts to Declarant.

7.6 Fences; hedges: No fence, hedge or boundary wall situated anywhere upon any Lot shall have a height greater than six (6) feet, or such other lesser height as the Architectural Control Committee may specify, above the finished graded surface of the ground upon which such fence, hedge or wall is situated. No fence shall be constructed so as to extend toward the front of the Lot past the front plane of the dwelling structure constructed thereon or toward the side of a Corner Lot past the front plane of the dwelling constructed on an adjoining lot. Where a dwelling has not been constructed on the adjoining lot, no fence shall be constructed closer than ten (10) feet to any side lot line adjacent to a dedicated street on a Corner Lot. No fence, wall, hedge, or shrub planting with an elevation above three (3) feet shall be permitted in front of the front yard setback requirements without special written consent of the Architectural Control Committee. No fence, wall, hedge, tree, or shrub planting which obstructs sight lines at an elevation between four (4) and eight (8) feet above the roadways shall be placed or permitted to remain on any Corner Lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines or, in the case of a rounded property corner, from the intersection of the street property lines within ten (10) feet from the intersection of a street property line with the edge of a driveway. No tree shall

be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

7.7 Construction: No building or structures shall be moved onto any Lot. During the course of construction no trailer houses or similar mobile units designed for overnight accommodations shall be parked in any street or within building setback lines. No trailer, basement, tent, shack, garage, barn or other unattached structure erected on a Lot shall at any time be used as a residence, temporarily or permanently, nor shall any residence of a temporary character be permitted. No building of any kind shall be erected or maintained on a Lot prior to the construction of the dwelling house thereon, except that a garage or other small building of permanent construction may be erected with the approval of the Architectural Control Committee for the purpose of storing tools and other articles during the construction of the permanent dwelling. Notwithstanding the foregoing, a portable construction office may be placed upon a Lot during the period in which construction of a dwelling unit thereon is in progress, provided that such office may not remain or be kept upon such Lot for more than three months unless renewed with the approval of the Architectural Control Committee. A temporary sales office may be placed upon any Lot by Declarant or Builder to facilitate Lot sales. Said temporary office may be a portable type or contained within a model home.

(a) The construction of the dwelling and associated structures shall be prosecuted diligently and continuously from the time of commencement thereof until such dwelling and associated structures are fully completed and painted and in no event shall such time exceed a period of one (1) year.

(b) No excavation for stone, sand, gravel, earth, water or minerals shall be made upon a Lot unless and only to the extent such excavation is necessary in connection with the construction of an approved structure thereon. No irrigation drain or waste water shall be permitted to flow in open ditches to or on any Lot or tract in said Project and may be transmitted only by the irrigation and drainage systems installed by Declarant and operated and maintained by the Amberwood Subdivision Home Owners Association.

7.8 Mining and Drilling: No derrick or other structure designed for use in boring or drilling for water, oil, natural gas or other products shall be erected, placed, permitted or maintained upon any portion of the Property, nor shall any water, oil, natural gas, petroleum, asphalt or other hydrocarbon product or substance be produced or extracted by or from any well upon, in or under said Property. No oil drilling, oil development operations, oil refining, mining, quarrying or other mineral excavation or similar activity shall be permitted on or under any part of the Property, nor shall oil wells, tanks, tunnels, mineral excavations, shafts or drifts be permitted upon or in any Lot.

7.9 Animals: No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, domestic cats or other household pets may be kept for an Owner's personal use, provided:

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(a) Such animals are not bred or maintained for any commercial purpose;

(b) Dogs and cats shall be limited to 2 dogs or 2 cats or 1 dog and 1 cat.

(c) Any such household pets shall be properly restrained and controlled at any time they are within the Project. It shall be the obligation of an Owner to control his animals in accordance with the Rules and Regulations from time to time adopted by the Association.

(d) Any kennel for animals which is constructed or maintained on any Lot, shall be (1) screened from view so as not to be visible from anywhere within or adjacent to the Project from the Common Area or adjacent Lots by a person 6 feet tall standing outside the property and in a location and of construction approved by the Architectural Control Committee; (2) located and maintained in a manner to avoid any endangerment of or nuisance to adjacent Lot Owners; and (3) maintained in a clean, odor free and insect free manner.

(e) "Household pets" as permitted hereby shall not include livestock, poultry, swine, waterfowl, reptiles, amphibians or rodents (except hamsters and gerbils).

(f) Notwithstanding the foregoing, household pets shall not be kept which unreasonably bother or constitute a nuisance to Owners of other Lots.

7.10 Landscaping: Prior to the beginning of construction of the dwelling upon any Lot, the Owner shall submit a landscaping plan to the Architectural Control Committee for approval.

(a) Within 30 days following initial occupancy of the dwelling structure each Lot shall be improved with the landscaping specified in the plan approved by the Architectural Control Committee, provided, however, that if placement and planting of landscaping is made impractical by inclement weather during the months of November, December, January, February or March, completion of landscaping may be deferred a reasonable period of time in the discretion of the Architectural Control Committee but shall be completed no later than the next April 30 following occupancy.

(b) All yard areas shall be landscaped, sodded and maintained in a professional manner and in accordance with an approved landscaping plan.

(c) Landscaping and vegetation shall be watered, pruned, cut and maintained weed-free according to good landscape practice and in good appearance.

7.11 Unsightly Structures, Property or Practices: No unsightliness shall be permitted on any Lot. Without limiting the generality of the foregoing, all unsightly facilities, equipment or structures shall be enclosed within approved structures or appropriately screened from view.

(a) Basketball backboards or posts shall not be installed without prior approval of the Architectural Control Committee as to materials and positioning. At a minimum, backboards shall be freestanding, constructed of plexiglas or acrylic materials and shall be supported by a removable metal post or posts, painted white or to blend with the color of the house and anchored in concrete. Backboards must be perpendicular to and adjacent to the driveway, or to the side of the house, or shall be located in the backyard, so as not to constitute a nuisance or visual obstruction to adjacent homeowners.

(b) All refuse, garbage and trash shall be kept at all times in covered, reasonably noiseless containers, which shall be kept and maintained within an enclosed structure or appropriately screened from view, except when necessarily placed for pick up by garbage removal service.

(c) Storage piles, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view. Compost piles shall be maintained so that they do not emit offensive odors, attract insects or otherwise constitute a nuisance. Clotheslines and similar structures for hanging, drying or airing clothes shall not be permanently installed. No lumber or scrap, refuse, trash or other materials shall be kept, stored or allowed to accumulate on any Lot.

7.12 Material Storage: No building materials of any kind shall be placed or stored upon a building site until the Owner is ready and able to commence construction, and then such material shall be placed within the property lines of the building site upon which the structure is to be erected. The Architectural Control Committee and/or Association through its agents, shall have the right to enter upon any vacant Lot for the purpose of burning or removing weeds, brush, growth or refuse, and charge the cost thereof to the Owner and which shall become a Limited Assessment against the Lot.

7.13 Noxious Use of Property: No portion of any common area, any Lot or any structure thereon shall be used for the conduct of any trade or business or professional activities except for home offices that do not generate traffic into or around the community. Noxious or undesirable acts or undesirable use of any portion of the Property, including, but not limited to, acts or uses causing noise which interferes with the peaceable enjoyment of neighboring properties is prohibited and shall not be permitted or maintained; provided, however, that an office and model home or homes for the purpose of the development, construction and sale of the Lots and homes in the Project may be maintained by Declarant and provided, further, that educational facilities, including schools and children's day care centers if approved by the Architectural Control Committee and properly licensed and zoned to operate within the Project, may be allowed with prior authorization of the Declarant. The prohibition of use of any Lot or any structure thereon for the conduct of any trade or business or professional activities includes and prohibits use of any Lot or any structure thereon for a "half-way house," treatment center, nursing home, shelter home, or other similar use, including use for the full time care and residence of unrelated physically or mentally handicapped persons (notwithstanding the provisions of Sections 67-6530 and 67-6531, Idaho Code).

7.14 Condition and Repair: No building or structure upon any Lot covered by this Declaration shall be permitted to fall into disrepair, and each such building and structure shall at all times be kept in good condition and repair and adequately painted as required under the provisions of, and which may be enforced as described in, Paragraph 6.2.

7.15 Vehicle and Equipment Parking: No campers, recreational vehicles, trailers, boats or motorcycles shall be parked upon any Lot for longer than forty-eight (48) hours (provided, however, that visitors may park for not longer than seventy-two (72) hours), unless fully enclosed in a garage or fenced or screened in a manner specifically approved for that Lot by the Architectural Control Committee, and shall not be parked on any street or Common Area within the Project.

No snowmobiles, snow removal equipment, golf carts, maintenance equipment or similar equipment or vehicles, and no working or commercial vehicles of greater than three quarter ton in size, and no junk cars or other unsightly vehicles shall be parked upon any Lot at any time unless fully enclosed in a garage on said Lot and shall not be parked on any street adjacent thereto or on any Common Area. When passenger vehicles are parked within any street right-of-way said vehicles shall park parallel to curbs only.

All other parking of equipment shall be prohibited, except as approved in writing by the Architectural Control Committee. No parking areas or driveways shall be constructed or maintained except as approved by the Architectural Control Committee. Parking bays or areas, or driveways, are prohibited in areas between side Lot lines and buildings or approved driveways unless specifically approved by the Architectural Control Committee.

7.16 Control of Exterior Appearance, Walls, Etc.: The visual harmony and aesthetic appeal of the Project being of mutual concern to all Owners and having a direct bearing on the value of Lots and improvements thereon, the Association or the Architectural Control Committee shall have the right to control the texture, design and color scheme of the outside walls, fences, screening devices, roofs, patio roofs, and covers of all structures erected upon any Lot and to require basic landscaping and maintenance thereof. The Owner shall not repaint the outside walls or fences without the prior approval of the Architectural Control Committee as to color. All open porches and patio roofs shall require the prior approval of the Architectural Control Committee.

7.17 Exterior Antennas, Etc.: Radio and television antennas on the exterior of the building or roof are prohibited. However, satellite dishes for television will be considered as long as they are not visible to the public and subject to Architectural Control Committee approval as to size and location.

7.18 Signage: No sign of any kind shall be displayed to the public view on any Lot except one (1) sign of not more than six (6) square feet advertising the property for sale or rent, or a sign

used by a builder to advertise the property during the course of construction and any sales period. In addition, signs may also be allowed as follows:

(a) The Association may erect and maintain uniform subdivision identification signs, street signs, and other appropriate informational signs upon the Common Area and Common Facilities, or upon utility easements, of a size and design approved by the Architectural Control Committee. No other signs shall be placed or maintained upon any of the Common Area.

(b) Declarant is entitled to place signs of such size, design and number as Declarant may deem appropriate, to identify the Project and display related information pertaining thereto, and to advertise Lots for sale.

7.19 Exterior Lighting: No exterior lighting shall be installed or maintained on any Lot or structure thereon, which interferes with the use and enjoyment of adjacent Lots, or without prior written approval of the Architectural Control Committee.

7.20 Mail Boxes: Each Lot shall have an assigned mail box contained in a "gang box" placed in a central location within the subdivision as approved by the Postmaster. Individual lot mail boxes shall be prohibited.

7.21 Sewage Disposal: No septic tank or other individual sewage disposal system shall be constructed or installed on any lot.

7.22 Easements: Easements for installation, operation and maintenance of utilities, drainage, and irrigation facilities are reserved as shown on the recorded plat. Within these easements, no permanent structure, fence, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and/or maintenance of such utilities, or which may change the direction of flow of water through a drainage channeling the easements or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

7.23 Common Driveway Easements and Restrictions: Lots 8, 9, 16 and 17, Block 1 and Lots 2, 3, 8 and 9, Block 2 are accessed via common driveways. By the recordation of the plat for Amberwood Subdivision, each of these lots shall have the perpetual requirement for the maintenance of the common driveway, which provides access to their lot. The costs of maintenance for the common driveway(s) shall be shared equally among the lot owners who utilize the driveway(s) for accessing their lot. Through the recordation of the plat for Amberwood Subdivision, each lot owner utilizing the common driveway for accessing their lot shall have a perpetual cross easement over said common driveway. The requirement for maintenance and the cross easement(s) shall run with the land, and said easement(s) and restrictions shall not be dissolved without the express written consent of the City of Boise.

7.24 Exterior Energy Devices: No energy production device including, but not limited to, generators of any kind and solar energy devices, shall be constructed or maintained on any Lot without prior written approval of the ACC, except for heat pumps or similar appliances shown on the plans approved by the ACC.

ARTICLE VIII. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

8.1 Membership: Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

8.2 Classes of Voting Members: The Association shall have two classes of voting membership; however, all votes shall be equal and counted as such, except where voting by separate classes may otherwise be provided in the Articles and Bylaws of the Association or this Declaration.

(a) Class A Members shall be Owners with the exception of the Declarant (during the period when the Declarant is a Class B Member). Each Class A member shall be entitled to one vote for each Lot owned. When more than one person is an Owner of a Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

(b) The sole Class B Member shall be the Declarant, who shall be entitled to three votes for each Lot owned. Class B membership shall cease and be converted automatically to Class A memberships (one Class A membership for each Lot owned) upon the happening of either of the following events, whichever occurs earlier:

(i) When ninety percent (90%) of the Lots have been conveyed by deed to Owners other than Declarant; or

(ii) On January 15, 2020.

ARTICLE IX.

COVENANT FOR MAINTENANCE ASSESSMENTS; LIENS AND ENFORCEMENT

9.1 Creation of the Lien and Personal Obligation of Assessments: The Declarant, for each Lot owned within the Development, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay when due all Assessments or charges made by the Association, including all Regular or Annual, Special and Limited Assessments and charges made against such owner pursuant to the provisions of this Declaration or other applicable instrument. Such Assessments, together with interest, costs, and reasonable attorney's fees which may be incurred in collecting the same, shall be a charge on the Lot and shall be a continuing lien upon the Lot

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against which each such Assessment or charge is made. Each such Assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the Owner of such Lot beginning with the time when the Assessment falls due. The personal obligation for delinquent Assessments shall not pass to such Owner's successors in title unless expressly assumed by them but shall remain such Owner's personal obligation regardless of whether he remains an Owner.

9.2 Regular or Annual Assessments: All Owners are obligated to pay Regular Assessments to the Treasurer of the Association on a schedule of payments established by the Board.

(a) The proceeds from Regular Assessments are to be used to pay for all costs and expenses incurred by the Association, including legal and other professional fees, for the conduct of its affairs, including without limitation the costs and expenses of construction, improvement, protection, operation, maintenance, repair, and management of Association Property, as well as other property managed and maintained by the Association and an amount allocated to an adequate reserve fund to be used for repairs, replacement, maintenance and improvement of those elements of the Common Area and Common Facilities, or other property of the Association or managed by the Association that must be replaced and maintained on a regular basis (collectively "Expenses").

(b) Until January of the year immediately following the conveyance of the first Lot to an Owner, the Regular Monthly Assessment shall be Twenty-five and no/100 Dollars (\$25.00) for each Lot.

(c) The Board of Directors shall fix the amount of the Regular Assessment against each Lot at least thirty (30) days in advance of each fiscal year, based on its estimate of Expenses for that year. The Regular Assessment to be paid by any particular Owner for any given fiscal year shall be computed by multiplying the net amount of the Association's total advance estimate of Expenses by the fraction produced by dividing the number of Lots attributable to the Owner by the total number of Lots in the Project.

9.3 Special Assessments: In the event the Board shall determine that the Regular Assessment for a given calendar year is or will be inadequate to meet the expenses of the Association for any reason, including but not limited to the cost of any construction, reconstruction, unexpected repairs or replacement of capital improvements upon the Common Area or attorney's fees and/or litigation costs, other professional fees, or for any other reason, the Board shall determine the approximate amount necessary to defray such expenses and levy a Special Assessment against the portions of the Project within its jurisdiction which shall be computed in the same manner as Regular Assessments. No Special Assessment shall be levied which exceeds twenty percent (20%) of the budgeted gross expenses of the Association for that fiscal year, without the vote or written assent of the Owners representing a two-thirds majority of the votes of the Members of the Association voting in person or by proxy at any meeting at

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which a quorum is present as provided for in Section 9.9. Every Special Assessment levied by and for the Association shall be levied and paid upon the same basis as that prescribed for the levying and payment of Regular Assessments.

9.4 Limited Assessments: Notwithstanding the above provisions with respect to Regular and Special Assessments, the Board may levy a Limited Assessment against a Member as a remedy to reimburse the Association for costs incurred in bringing the Member and/or the Member's Lot into compliance with the provisions of the governing instruments for The Amberwood Subdivision or for damage to Association Property which is attributable to a Member as provided in this Declaration.

9.5 Commencement of Regular Assessments: Regular Assessments of the Association against each Lot shall commence the date of the closing of the first sale of a Lot to an Owner. Provided, however, that any Lot owned by the Declarant shall be assessed a Regular Assessment not exceeding ten percent (10%) of the amount assessed against Lots owned by other owners. If the Declarant pays all of any portion of the expenses of the Association in excess of the amount assessed to Lots owned by the Declarant, such excess amounts so paid shall constitute either (i) a prepayment of Assessments (Regular or Special) to become due and payable on the Lots owned by the Declarant within the Property, or (ii) a loan by the Declarant to the Association, which loan, without interest, shall be repaid by the Association to the Declarant from the funds of the Association which are available to make such repayment. Nothing herein contained shall obligate the Declarant to pay any Assessment with respect to a Lot within a separately platted phase or subdivision within the Property in which the Declarant owns all of the Lots.

9.6 Uniform Rate of Assessment: Unless otherwise specifically provided herein, both Regular and Special Assessments shall be fixed at a uniform rate per Lot for all members of the Association, except for Declarant as noted in Article 9.5 above.

9.7 Notice and Assessment Due Date: Written notice of Regular and Special Assessments shall be sent to the Owner of every Lot subject thereto prior to the Assessment Period or to the due date for any Special Assessment. The due dates for payment of Regular and Special Assessments allowed by the Board to be made in installments shall be the first day of each installment period (month or quarter) unless some other due date is established by the Board. Each installment shall become delinquent if not paid on or before the due date. There shall accrue with each delinquent installment payment a late charge equal to ten percent (10%) of the delinquent installment. In addition, each installment payment which is delinquent for more than ten (10) days shall accrue interest at eighteen percent (18%) per annum calculated from the date of delinquency to and including the date full payment is received by the Association. The Association may bring an action against the delinquent Owner and may foreclose the lien against such Owner's Lot as more fully provided herein. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

9.8 Estoppel Certificate: The Association shall, upon at least twenty (20) days prior written request, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specific Lot have been paid. A properly executed certificate of the Association as to the status of Assessments on a Lot is binding upon the Association as of the date of its issuance. Reliance on such certificate may not extend to any default as to which the signor shall have had no actual knowledge.

9.9 Special Notice and Quorum Requirements: The Regular Assessment for any year may be increased by not more than twenty percent (20%) over the previous year, by action of the Board, without a vote of the membership. A Special Assessment may be made if it does not exceed twenty percent (20%) of the budgeted gross expenses of the Association for that fiscal year, by action of the Board, without a vote of the membership. Written notice of any meeting called for the purpose of levying a Special Assessment which exceeds twenty percent (20%) of the budgeted gross expenses of the Association for that fiscal year, or for the purpose of obtaining a membership vote in connection with an increase in the Regular Assessment by more than twenty percent (20%) over the previous year, shall be sent to all Members of the Association not less than fifteen (15) days nor more than thirty (30) days before such meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of the total votes of the Association shall constitute a quorum. If such quorum is not present, subsequent meetings may be called subject to the same notice requirement, and the required quorum at the subsequent meetings shall be fifty percent (50%) of the quorum required at the preceding meeting. No such subsequent meeting shall be held more than thirty (30) days following the proceeding meeting. Action to approve any assessment requiring membership approval shall require the affirmative vote of two-thirds (2/3) of the Members voting in person or by proxy at any meeting of the Members at which a quorum is established.

9.10 Subordination of the Lien to First Mortgages: The lien for the Assessments provided for herein shall not be subordinate to the lien of any deed of trust or mortgage except the lien of a first deed of trust or first mortgage given and made in good faith and for value that is of record as an encumbrance against such Lot prior to the recordation of a claim of lien for the Assessments. Except as expressly provided herein with respect to a first mortgagee who acquires title to a Lot, the sale or transfer of any Lot shall not affect the Assessment lien provided for herein, nor the creation thereof by the recordation of a claim of lien on account of the Assessments becoming due whether before, on or after the date of such sale or transfer, nor shall such sale or transfer diminish or defeat the personal obligation of any Owner for delinquent Assessments as provided for in this Declaration.

9.11 Rights of Mortgagees: Notwithstanding any other provision of this Declaration, no amendment of this Declaration shall operate to defeat the rights of the Beneficiary under any deed of trust upon a Lot made in good faith and for value, and recorded prior to the recordation of such amendment, provided that after the foreclosure of any such deed of trust such Lot shall remain subject to this Declaration as amended.

9.12 Right to Enforce: The Association has the right to collect and enforce its Assessments pursuant to the provisions hereof. Each Owner of a Lot, upon becoming an Owner of such Lot, shall be deemed to covenant and agree to pay each and every Assessment provided for in this Declaration and agrees to the enforcement of all Assessments in the manner herein specified. In the event an attorney or attorneys are employed for the collection of any Assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, each Owner agrees to pay reasonable attorney's fees in addition to any other relief or remedy obtained against such Owner. The Board or its authorized representative may enforce the obligations of the Owners to pay such Assessments by commencement and maintenance of a suit at law or in equity, or the Board may exercise the power of foreclosure and sale pursuant hereto to enforce the liens created hereby. A suit to recover a money judgment for an unpaid Assessment shall be maintainable without foreclosing or waiving the lien hereinafter provided.

9.13 Assessment Liens:

(a) There is hereby created a claim of lien with power of sale on each and every Lot to secure payment of any and all Assessments levied against such Lot pursuant to this Declaration together with interest thereon at the maximum rate permitted by law and all costs of collection which may be paid or incurred by the Association making the Assessment in connection therewith, including reasonable attorneys' fees. All sums assessed in accordance with the provisions of this Declaration shall constitute a lien on such respective Lots upon recordation of a claim of lien with the Ada County Recorder. Such lien shall be prior and superior to all other liens or claims created subsequent to the recordation of the notice of delinquency and claim of lien except for tax liens for real property taxes on any Lot and Assessments on any Lot in favor of any municipal or other governmental assessing body which, by law, would be superior thereto.

(b) Upon default of any Owner in the payment of any Regular, Special or Limited Assessment issued hereunder, or payment of any installment pursuant to an approved installment plan, the Association may cause to be recorded in the office of the Ada County Recorder a claim of lien. The claim of lien shall state the amount of such delinquent sums and other authorized charges (including the cost of recording such notice), a sufficient description of the Lot(s) against which the same have been assessed, and the name of the record Owner thereof. Each delinquency shall constitute a separate basis for a notice and claim of lien, but any number of defaults may be included within a single notice and claim of lien, including defaults which occur after the notice and claim of lien and before satisfaction of the defaults is recorded. Upon payment to the Association of such delinquent sums and charges in connection therewith or other satisfaction thereof, the Association shall cause to be recorded a further notice stating the satisfaction of relief of such delinquent sums and charges. The Association may demand and receive the cost of preparing and recording such release before recording the same.

9.14 Method of Foreclosure: Such lien may be foreclosed by appropriate action in court or by sale by the Association establishing the Assessment, its authority or other person authorized to make the sale. Such sale shall be conducted in accordance with the provisions of the Idaho Code applicable to the exercise of powers of sale permitted by law. The Board is hereby authorized to appoint its attorney, any officer or director of the Association, or any title company authorized to do business in Idaho as trustee for the purpose of conducting such power of sale or foreclosure.

9.15 Required Notice: Notwithstanding anything contained in this Declaration to the contrary, no action may be brought to foreclose the lien created by recordation of the notice of delinquency and claim of lien, whether judicially, by power of sale or otherwise, until the expiration of thirty (30) days after a copy of such claim of lien has been deposited in the United States mail, certified or registered, postage prepaid, to the Owner of the Lot(s) described in such notice of delinquency and claim of lien, and to the person in possession of such Lot(s), and a copy thereof is recorded by the Association in the Office of the Ada County Recorder.

9.16 Exemption From Prior Assessments: Each Mortgagee which comes into possession of a Lot by virtue of foreclosure or otherwise shall take title to such Lot free from any claims for unpaid Assessments and charges against the Lot which accrue prior to the time such Mortgage comes into possession, except for claims for a share of such assessments or charges resulting from a reallocation thereof to all Lots, including the mortgaged Lot.

9.17 Consent to Release of Information by Mortgage: Mortgagees are hereby authorized to furnish information to the Board concerning the status of any Mortgage encumbering a Lot and each Owner of a Lot encumbered by such a Mortgage hereby consent thereto.

9.18 Restricted Application. It is expressly provided that the terms, conditions and provisions of this Article shall not be operative or in force and effect unless and until FHLMC, FNMA, GNMA, FHA or VA purchases, grantees or insures a Mortgage on a Lot within the Property and then only to the extent the same are required by said purchaser, guarantor or Insurer. In the event the standards and guidelines of FHLMC, FNMA, GNMA, FHA or VA do not require as a condition of approval of the Property as a qualifying subdivision, the inclusion of one or more of the provisions of this Article, said non-required provisions shall be of no further force or effect.

ARTICLE X. ARCHITECTURAL CONTROL

In order to protect the quality and value of the homes built in the Project and for the continued protection of the Owners thereof, an Architectural Control Committee is hereby established consisting of three or more members to be appointed by Declarant as long as Declarant owns Lots in the Project. Thereafter, the Architectural Control Committee shall be

appointed by the Board of Directors of the Association, to succeed the prior committee membership upon such appointment.

10.1 Approvals Required: No building, fence, wall, patio cover, window awning or other structure or landscaping improvements of any type shall be commenced, erected or installed upon any Lot, Common Area or other property within the Project, nor shall any exterior addition to or change or alteration of existing improvements be made, until the plans and specifications showing the nature, kind, shape, configuration, height, materials, location of the same and such other detail as the Architectural Control Committee may require (including but not limited to any electrical, heating or cooling systems), shall have been submitted to and approved in writing by the Architectural Control Committee as to harmony of external design and location in relation to surrounding structures and topography and as to conformity with the requirements of this Declaration. In the event the Architectural Control Committee fails to approve, disapprove, or specify the deficiency in, such plans, specifications and location within thirty (30) days after submission to the Architectural Control Committee in such form as they may require, approval will not be required, and this Article will be deemed to have been fully complied with.

10.2 Rules and Regulations: The Architectural Control Committee is hereby authorized to adopt Rules to govern its procedures including such rules as the Committee deems appropriate and in keeping with the spirit of due process of law with regard to the right of concerned parties due to be heard on any matter before the Committee, the Committee is further hereby empowered to adopt such regulations as it shall deem appropriate, consistent with the provisions of this Declaration including matters of design, materials, and aesthetic interest.

10.3 Fees: The Architectural Control Committee may establish by its adopted rules, a fee schedule for an architectural review fee to be paid by each Owner submitting plans and specifications to the Committee for approval. No submission for approval will be considered complete until such fee has been paid. Such fee shall not exceed such reasonable amount as may be required to reimburse the Architectural Control Committee for the costs of professional review of submittals and the services of a consultant to administer the matter to its completion, including inspections which may be required.

10.4 Enforcement: The Architectural Control Committee may in its own name or on behalf of the Association, exercise all available legal and equitable remedies available to prevent or remove any unauthorized or unapproved construction or improvements on any Lot or the Property, or any portion thereof.

10.5 Waivers: The approval of any plans, drawings or specifications for any plans, improvements or construction, or for any matter requiring the approval of the Architectural Control committee, shall not be deemed a waiver of any right to withhold approval of any similar plan, drawing, specifications or maker subsequently submitted for approval.

10.6 Liability: Neither the Architectural Control Committee nor any member thereof shall be liable to the Association, to any Owner, or to any other party, for any damage suffered or claimed on account of any act, action or lack thereof, or conduct of the Architectural Control committee or any members thereof, so long as the Committee, or the respective members thereof, acted in good faith on the basis of information they then possessed.

ARTICLE XI. ENFORCEMENT

11.1 Authority to Enforce: The provisions of this Declaration may be enforced by any of the following persons or entities under the procedure outlined herein:

(a) The Association as to all matters, and the Architectural Control committee as to makers subject to its enforcement.

(b) The Declarant so long as it has any retained ownership of any of the Property.

(c) The Owner or Owners of any Lot adversely affected, but only after written demand is made on the Association and its failure to act, provided that no such Owner shall have the right to enforce independently of the Association any assessment or lien herein.

11.2 Methods of Enforcement: Subject to the provisions of Paragraph 11.3 hereof, the following methods of enforcement may be utilized:

(a) Legal or equitable action for damages, injunction, abatement, specific performance, foreclosure, rescission, cancellation of any contracts of an executory nature, or such other remedies at law and equity which may be available in a court of law;

(b) Eviction for trespass by police action;

(c) Monetary penalties and temporary suspension from Association membership rights and privileges in accordance with the Bylaws of the Association, provided that, except for late charges, interest, and other penalties for failure to pay, as and when due, assessments levied by the Association as provided in this Declaration, no discipline or sanction shall be effective against a Member unless:

(i) The Member is given fifteen (15) days' written notice of the proposed compliance action and a timely opportunity to be heard on the matter. The opportunity to be heard may, at the election of such Member, be oral or in writing. The notice shall be given personally to such Member or sent by first-class or certified mail to the last address of such Member as shown on the records of the Association and shall state the place, date and time of the hearing, which shall not be less than five (5) days before the effective date of the proposed expulsion, termination, or suspension.

(ii) The hearing shall be conducted by a committee composed of not less than three (3) persons, appointed by the president of the Association, which shall conduct the hearing in good faith and in a fair and reasonable manner and shall not reach a decision regarding appropriate compliance measures until the conclusion of the meeting.

(iii) Any Member challenging the compliance measures taken by the Board, including any claim alleging defective notice, must commence court action within one (1) year after the date of the contested compliance measure taken by the Board.

11.3 Limitations on Enforcement: The Association may not cause a forfeiture or abridgement of an Owner's right to the full use and enjoyment of his individually owned subdivision interest on account of the failure of the Owner to comply with provisions of this Declaration except by judgment of a court or a decision arising out of arbitration or on account of a foreclosure for failure of the Owner to pay assessments duly levied by the Association.

11.4 Fees and Costs: The Association, or any person entitled to enforce any of the terms hereof, by any of the means contained herein, who obtains a judgment or decree from any court or arbitrator enforcing any of the provisions hereof, shall be entitled to reasonable attorneys' fees and all costs incurred or anticipated to be incurred in remedying or abating the offensive condition as a part of his or its judgement or decree against the party in violation hereof.

11.5 Failure to Enforce: Neither the Association nor the Architectural Control Committee shall be liable to any person for failure to enforce any of the terms hereof, for personal injury, loss of life, damage to property, economic detriment or for any other loss caused either by their enforcement or non-enforcement. The failure to enforce any of such matters, including any covenants contained in this Declaration, shall not be deemed a waiver of the right to subsequently do so.

ARTICLE XIII. PRESSURIZED IRRIGATION

12.1 Private Sprinkler System: Lot Owners shall construct an underground sprinkler system in the front yard of their home for irrigation purposes.

12.2 Ownership & Maintenance: The Property Owners shall be responsible for the ownership and maintenance of their pressurized irrigation system. Pressurized irrigation systems shall be maintained in good working order to ensure the healthy and attractive appearance of landscaped lawns and shrubs.

ARTICLE XVII. GENERAL PROVISIONS

13.1 Severability: Invalidation of any of these covenants or restrictions by judgment or court order shall not affect any other provision hereof, which shall remain in full force and effect.

13.2 Amendment: The easements, covenants, conditions, and restrictions of this Declaration shall run with and bind the Property for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration, other than the provisions of paragraph 8.2 hereof, may be amended during the first twenty (20) year period by a document signed and acknowledged by Owners representing not less than ninety percent (90%) of the Lots subject to this Declaration, and thereafter by a document signed and acknowledged by the Owners of not less than seventy-five percent (75%) of the Lots subject to this Declaration. Any amendment to paragraph 8.2 of the Declaration shall, until the last Lot in the Project is sold by Declarant, require, in addition to a document signed and acknowledged by the requisite number of Owners, the written consent of Declarant, its successors or assigns. No amendment to the Declaration shall be effective until recorded.

13.3 Conveyance of Common Area: The Common Area and Common Facilities in each phase of development of the Project shall be conveyed to the Association by Declarant, free and clear of all encumbrances, prior to the first mortgage in that phase being insured by HUD. Until conveyed. Declarant shall be solely responsible for the maintenance and management of Common Area and Common Facilities, and for all costs and expenses associated therewith not covered by the assessments provided for herein.

13.4 HUD/VA Approval: If any home in the Project is to be financed by HUD/VA, then as long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration (HUD) or the Veterans Administration: annexation of additional real property to the Project, mergers and consolidations, mortgaging or dedication of Common Area, dissolution or amendment of the Articles of Incorporation or Bylaws of the Association and amendment of this Declaration.

13.5 Contracts or Agreements: The Board of Directors may enter into such contracts or agreements on behalf of the Association as are required in order to satisfy the guidelines of the VA, FHA, FHLMC, FNMA, 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 building Lots in the Project with dwelling structures thereon.

13.6 Special Covenant for the Benefit of the City of Boise: The Project is subject to the City of Boise at the instigation and discretion of the City. Duties and obligations of the Association and of the Owners of all Lots are expressly made a covenant running to and for the benefit of the City of Boise to the extent they pertain to the perpetual requirement of the Association and the Owners of Lots in the Project to maintain the private street lights and the obligation to submit to inspection upon hookup to the City sewer system and to pay monthly sewer charges thereafter. This special covenant for the benefit of the City of Boise, which shall run with the land, may not be amended, nor may the Association be dissolved without the prior express consent of the City of Boise.

13.7 Special Covenant for the Benefit of the Ada County Highway District (ACHD): Lot 22 of Block 1 is subject to a blanket easement over the entire lot for the benefit of Ada County Highway District as per the Amberwood Subdivision recorded plat, these covenants, and the Drainage Facilities Operation & Maintenance Manual.

- (a) The easement shall give ACHD the right to access the property to inspect the facilities contained therein and, if necessary, promptly perform any required maintenance as required;
- (b) The ACHD shall concur with any proposed changes in the previously approved documents prior to modifying; and
- (c) Allow the district to assess the costs of any required maintenance to said facilities within the lot, including the use of liens and/or assessment of maintenance costs against the real property taxes owed by the lots within the development.

13.8 Sewer Covenants: The following covenants shall run with each Lot and any Common Area affected thereby and shall be binding upon each Owner of a Lot and all occupants of any improvements constructed on a Lot:

(a) No Lot may be used or occupied for any allowed use unless the same is connected to the public sewerage collection system constructed and installed within the Property.

(b) All sewer hook-up fees charged by the municipality having jurisdiction and control over the Lot shall be paid by the Owner at the time of construction of the improvements thereon and the connection thereof to the public sewerage collection system, said sewer hook-up fees to be paid at such time and in such amount as shall be required by the ordinances and regulations of the municipal entity having jurisdiction thereof.

(c) A monthly sewerage charge shall be paid to the municipal entity having jurisdiction thereof, or its designee, after connection to the public sewerage collection system in accordance with the ordinances and regulations of said municipal entity.

(d) All sewer service lines connected to the sewerage collection system constructed and installed in the Property shall be constructed in accordance with all applicable codes and regulations and shall be inspected as required by the governmental entity having jurisdiction thereof to assure a minimum of infiltration from said service line into the sewerage collection system.

(e) The Declarant shall provide access, satisfactory to the government entity having jurisdiction thereof, for sewer cleaning equipment to all sanitary sewer manholes located outside of public right-of-way.

- (e) The Declarant and each Owner of a Lot hereby authorizes the governmental entity having jurisdiction thereof, or its designee, to bring any action it deems necessary or required for the collection of any fees or charges due said entity for sewer service connected or monthly sewer charges and/or to otherwise enforce any of the obligations respecting the connection to the public sewerage collection system or use thereof as provided in this Section.

13.9 Books and Records: All books, records and minutes of the Board and all other books and records maintained by the Association shall be made available for inspection and copying by any Owner or by his duly authorized representative, at any reasonable time and for a purpose reasonably related to his interest as a member in the Association, or at such other place and time as the Board shall prescribe.

13.10 Non-Waiver: The failure of the Declarant, the Board or any Owner in any one or more instances to insist upon the strict performance of any of the covenants, conditions, restrictions, easements or other provisions of this Declaration or to exercise any right or option contained herein, or to serve any notice or to institute any action, shall not be construed as a waiver or relinquishment for the future of such covenant, condition, restriction, easement or other provision, but the same shall remain in full force and effect.

13.11 Acceptance: Each Owner of a Lot, each purchaser of a Lot under a contract or agreement of sale and each holder of an option to purchase a Lot, by accepting a deed, contract of sale or agreement or option, accepts the same subject to all of the covenants, conditions, restrictions, easements and other provisions set forth in this Declaration and agrees to be bound by the same.

13.12 Indemnification of Board Members: Each member of the Board and each member of the ACC shall be indemnified by the Owners against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed in connection with any proceeding to which said member may be a party or in which said member may become involved, by reason of being or having been a member of the Board or the ACC or any settlement thereof, whether or not said person is a member of the Board or ACC at the time such expenses or liabilities are incurred, except in such cases wherein said person is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties; provided that in the event of a settlement, the indemnification shall apply only when the Board or the ACC approves such settlement and reimbursement as being in the best interest of the Association or Owners. This Section shall extend to and apply also for the indemnification of the Declarant during the initial period of operation of the Association or prior thereto during the period the Declarant is exercising the powers of the Association.

13.13 Notices: Any notice permitted or required to be delivered as provided in this Declaration shall be in writing and shall be delivered either personally or by mail. If delivery is

made by mail, it shall be deemed to have been delivered seventy-two (72) hours after the same has been deposited in the United States mail, postage prepaid, properly addressed.

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND
EASEMENTS FOR AMBERWOOD SUBDIVISION - 32**

IN WITNESS WHEREOF, the undersigned DECLARANT executes this DECLARATION this 10 day of June 2004, ~~2003~~.

RK DEVELOPMENT, LLC


Ronald Leslie (Managing Member)


Kelly Hunemiller (Member)

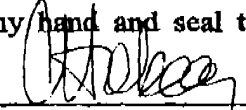
ACKNOWLEDGEMENTS

STATE OF ~~IDAHO~~) CALIFORNIA
COUNTY OF ~~ADA~~) LAKE

On this 10th day of June, 2004, before me The Undersigned personally appeared Ronald Leslie, known or identified to me to be the Managing Member, and Kelly Hunemiller, known or identified to me to be a Member of the limited liability 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.

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




Notary Public for ~~Idaho~~ CALIFORNIA
Residing at: LAKE COUNTY CA
My Commission Expires 11-11-2005

STATE OF IDAHO)
COUNTY OF ADA)

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR AMBERWOOD SUBDIVISION - 33