

**JUNE 2022
AMENDED AND RESTATED
DECLARATION OF PROTECTIVE
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
HIGHLAND ESTATES SUBDIVISION**

THIS JUNE 2022 AMENDED AND RESTATED DECLARATION is made by the Highland Estates Homeowners Association, Inc., an Idaho nonprofit corporation ("Association") effective as of the date executed by the officers below. This Declaration of Covenants, Conditions and Restrictions for Highland Estates ("Declaration") is a statement in its entirety of the covenants, conditions and restrictions for the Highland Estates Subdivision and is as follows:

**ARTICLE 1
RECITALS**

1.1 Property Covered. The Association is acting on behalf of the Owners of Lots within Highland Estates Subdivision, formerly known as Phase IV of the MeadowCreek Subdivision, Adams County, Idaho, as the plats for the same have been recorded with the Adams County, Idaho Recorder on December 12, 1996 as Instrument No. 91236 (for the Highlands above Meadowcreek), and on May 21, 2002 as Instrument No. 101624 (for the Highlands above MeadowCreek Subdivision, Phase 2), and on August 8, 2002 as Instrument No. 102116 (for Lots 27, 28 and 34 in Highlands above MeadowCreek Subdivision, Phase 2).

1.2 Purpose. This Declaration of Covenants, Conditions and Restrictions ("Declaration") is intended to preserve the value, desirability and attractiveness of the Property, to create and protect the highest quality development of the Property and to ensure proper maintenance thereof.

1.3 Goals. The project is being developed to provide a limited number of recreational residential sites within the 200+ acre Highland Estates Subdivision. The Property provides many unique natural resources including its meadows, forests and wildlife populations. The project has been designed and will be managed to preserve and enhance these natural resources for the benefit of all Lot owners.

**ARTICLE 2
DECLARATION**

2.1 Scope of Declaration. The Association hereby declares that all of the Property, and each Lot therein, is and shall be held, sold and conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following covenants, conditions, restrictions, easements and equitable servitudes which are for the purpose of protecting the value and desirability of, and which shall run with, the Property. The covenants, conditions and restrictions contained in this Declaration shall:

- A. Be binding upon all persons having or acquiring any right, title or interest in or to the Property or any Lot and their successors or assigns;
- B. Inure to the benefit of every portion of the Property or Lot, or an interest therein;
- C. Inure to the benefit and be binding upon the Owners and their successors and assigns each grantee and his/her respective successors in interest; and

D. Be enforced by any Owner or grantee or his/her successors in interest or by the Highland Estates Homeowners Association ("Association").

2.2 Other Restrictions. The covenants, conditions and restrictions contained in this Declaration are IN ADDITION to any other land use restrictions, zoning ordinances, laws, rules and decisions of other governmental authorities, including judicial authorities. This Declaration does not supersede or replace any such land use restrictions which are in force and must be satisfied independent of this Declaration.

ARTICLE 3 DEFINITIONS

Unless the context requires otherwise, the following words and phrases, when used in this Declaration, shall have the meanings hereinafter specified:

3.1 ACCESSORY DWELLING shall mean a dwelling not exceeding 800 square feet in Net Floor Area located in an Outbuilding for use by domestic help or occasional guests.

3.2 AGRICULTURAL shall mean the harvesting of crops and timber. It shall also mean feeding, breeding, management and sale of livestock and any other agricultural or horticultural use.

3.3 ARTICLES shall mean the Articles of Incorporation of the Association which have been or shall be filed in the office of the Secretary of the State of Idaho, and as may be amended from time to time.

3.4 ASSESSMENTS shall mean those payments required of the Highland Estates Homeowners Association, Inc., including regular and special assessments as further defined in this Declaration.

3.5 ASSOCIATION shall mean the Highland Estates Homeowners Association, Inc., the non-profit Idaho corporation described in this Declaration, its successors and assigns.

3.6 ASSOCIATION EASEMENTS shall mean, collectively, all roads shown on the recorded plats of Highland Estates Subdivision and all easements granted to Owners and the Association for the benefit of its members in this Declaration and in recorded conveyances or as established by the Board over the Common Areas designated for use by the Members.

3.7 ASSOCIATION RULES shall mean the rules and regulations of the Association and as may be amended from time to time.

3.8 BARN shall mean an Outbuilding for the storage of vehicles, farm equipment and feed, and for the housing of farm animals.

3.9 BASEMENT shall mean a building floor below natural grade by an average of at least 4 feet on three or more sides.

3.10 BENEFICIARY shall mean a mortgagee under a mortgage or a beneficiary or holder under a deed of trust, which mortgage or deed of trust encumbers parcels of real property on the Property.

3.11 BOARD shall mean the Board of Directors of the Highland Estates Homeowners Association, Inc.

- 3.12 BUILDING FOOTPRINT** shall mean that area of a Lot covered by any part of a building, including porches, decks, and overhangs.
- 3.13 BYLAWS** shall mean the Bylaws of the Association which have been or shall be adopted by the Board, as such Bylaws may be amended from time to time.
- 3.14 COMMON or COMMON AREAS** shall mean available for use by all Owners and their guests.
- 3.15 DECLARATION** shall mean this instrument and as it may be amended and supplemented from time to time.
- 3.16 DEED OF TRUST** shall mean a mortgage or a deed of trust, as the case may be.
- 3.17 DESIGN REVIEW COMMITTEE RULES OR DRC RULES** shall mean any Design Review rules or guidelines adopted by the Board as described at Section 10.2.3 below. Said rules may be modified from time to time by the Board.
- 3.18 GOVERNING DOCUMENTS or ASSOCIATION GOVERNING DOCUMENTS** shall mean this Declaration, the Bylaws, the Articles of Incorporation, the Design Review Committee Rules, any Association Rules, and any other governing document adopted according to the terms of this Declaration.
- 3.19 HEIGHT** shall mean the limit to the vertical extent of a building, fence or other Improvement that is measured in feet relative to the natural grade of the Lot. Height limits do not apply to chimneys, lightning rods and weathervanes which may be of any height approved by the Design Review Committee.
- 3.20 HOMESITE** shall mean the portion of each Lot as shown on the Plat within which the house and up to three Outbuildings must be located.
- 3.21 HOUSE** shall mean a single-family, residential structure designed to accommodate no more than a single family, domestic help and occasional guests.
- 3.22 IMPROVEMENT** shall mean all things constructed upon, above, or below the Property and appurtenances thereto of every type and kind, including, but not limited to, buildings, outbuildings, barns, garages, carports, roads, driveways, parking areas, fences, corrals, walls, stairs, decks, landscaping, windbreaks, poles, signs, site grading, underground utilities, timber removal, irrigation devices, drain fields, antennae, sport courts, satellite dishes, or equipment, whether temporary or permanent, fixed or removable. Improvement shall also mean any alteration, excavation or fill for any purpose to any Lot, vegetation, diversion dam, stream, spring, seep, ditch, fill or other device
- 3.23 INDEPENDENT BUILDING** shall mean a building having no interior passage to an adjacent building
- 3.24 LOT** shall mean each of Lots 1 through 34, as shown on the Plat.
- 3.25 MEMBER** shall mean any person who is a member of the Association as described in section 6.2 of the Declaration.
- 3.26 MORTGAGE** shall mean any mortgage or deed of trust or other conveyance or hypothecation of a Lot to secure the performance of an obligation which will be void and reconveyed upon the completion of such performance.

3.27 NATURAL GRADE shall mean the natural elevation point on a Lot existing prior to any site preparation or improvement.

3.28 NET FLOOR AREA shall mean the enclosed area of a building, excluding unglazed porches, colonnades, and balconies.

3.29 NOTICE AND HEARING shall mean 30-days' notice and public hearing before the Board at which time the Owner concerned shall have an opportunity to be heard in person or by counsel at Owner's expense.

3.30 OUTBUILDING shall mean an Independent Building in addition to the House.

3.31 OWNER shall mean the person or persons or other legal entity or entities holding a fee simple interest in a Lot or, as the case may be, the purchaser of a Lot under an executory contract of sale (but excluding those having such interest merely as security for the performance of an obligation). For the purposes of Articles 4 and 5 only, unless the context otherwise requires, Owner shall also include the family, invitees, licensees, and lessees of any Owner. Notwithstanding anything in this section to the contrary, the Association, as owner of the private road system within the Highland Estates and the Common Areas, shall not be deemed an "Owner" for the purposes of this Declaration.

3.32 PERSON shall mean an individual or any other entity with the legal right to hold title to real property.

3.33 PLAT shall mean any subdivision plat covering any portion of the Property as recorded at the office of the County Recorder, Adams County, Idaho, as the same may be amended by duly recorded amendments thereof. The currently existing plats have been recorded with the Adams County, Idaho Recorder on December 12, 1996 as Instrument No. 91236 (for the Highlands above Meadowcreek), and on May 21, 2002 as Instrument No. 101624 (for the Highlands above MeadowCreek Subdivision, Phase 2).

ARTICLE 4 GENERAL AND SPECIFIC RESTRICTIONS

Subject to the provisions of Section 10.10 below with regard to Variances, the property shall be held, used and enjoyed subject to the following limitations and restrictions:

4.1 Design Review Committee. There shall be no excavation or alteration of any Lot, no action to construct, place or erect any Improvement or structure on any Lot (or which in any way alters the exterior appearance of any Improvement or Lot or removal of any Improvement) without the prior written approval of the Design Review Committee in accordance with this Declaration and the Exhibits to the Declaration, all of which are incorporated herein by reference as if restated in full. These requirements shall apply only to the exterior appearance of said Improvements and not the interior thereof.

4.2 Insurance Rates. Nothing shall be done or kept on any Lot or the Property which shall increase the rate or result in the cancellation of insurance payable by any Owner, the Association, or which would be in violation of any Association Rule or Adams County Regulation.

4.3 No Further Subdivision. No Lot may be further subdivided, nor may any easement or other interest therein, less than the whole, be conveyed by the Owner thereof other than for underground utilities and underground drainage facilities.

4.4 Animals. No more than 4 dogs and 4 cats (and other indoor household pets) may be kept except with the approval of the Board, and provided that they are not kept, bred or maintained for any commercial purpose and not allowed to run at large, chase wildlife or bark excessively. Owners with farm animals shall maintain pasture grasses and fence pastures according to the alignment shown on the Plat. Farm animals (other than pigs, chickens and other burrowing animals) shall not exceed 2 animals per 5 acres owned unless approved by the Board; including, but not limited to, horses, cattle, llamas, sheep, deer, elk, etc. No farm animals shall be allowed on any Lot unless contained by fencing. No pigs, chickens and or burrowing animals shall be allowed on any Lot within the Property.

4.5 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property so as to render any portion thereof unsanitary, unsightly, offensive or detrimental to any other Lot or its occupants. No noise, including, but not limited to, noise created by people, animals, equipment, electronic device, audio receiver, television, stereo, musical instrument and/or machinery, or any other audible nuisance, shall be permitted which is offensive or detrimental to any other Lot in the vicinity thereof or to its occupants.

4.6 Maintenance of Improvements. No improvement upon any Lot shall be permitted to fall into disrepair, and each such Improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner thereof.

4.7 Disrepair. If any Owner permits any Improvement of which he or she is responsible to maintain to fall into disrepair so as to create a dangerous, unsafe, unsightly or unattractive condition, the Board, upon 15 days prior written notice to such Owner, may correct such condition and enter upon such Owner's Lot for the purpose of doing so, and such Owner shall promptly reimburse the Association for the cost thereof. Such cost shall create a lien in the same manner as other assessments, as set forth in this Declaration. Such Owner shall be personally liable, and their property may be subject to a mechanic's or other lien, for all costs and expenses incurred by the Association in taking such corrective actions, plus all costs incurred in collecting the amounts due. Each such Owner shall pay all amounts due for the work within 10 days after receipt of written demand therefor, or the amounts may, at the option of the Board be added to amounts payable by such Owner as a regular Assessment.

4.8 Drainage. All drainage shall be managed in the best interest of the Association. There shall be no alteration, improvement, or interference with any established drainage pattern over any Lot within the Property unless approved in writing by the Design Review Committee and the Board. Any alternation, improvement, or interference with any drainage shall also comply with applicable local, state and federal regulations. For purposes of this Declaration, "alterations" shall mean to obstruct diminish, fill, pond, dredge, destroy, alter, modify, relocate or change. "Established" is defined as the drainage which exists at the time of the grading of the Lot or Property, or as shown on any plans approved by the Design Review Committee or the Plat of the Property.

4.9 Common Areas. The Common Areas, if any, shall be managed by the Association, and no alterations within said areas shall be allowed except by approval of the Association's Board of Directors.

4.10 Sewage and Water Supply Facilities. All residential structures on Lots other than those specifically identified herein shall be provided, at the Owner's expense, with a water well(s). All residential structures on all Lots shall be provided, at the Owner's expense, with adequate

sewage treatment facilities, including septic tank and drain field. Individual sewage and water systems shall be permitted on any Lot, provided such system is designed, located, constructed and equipped in accordance with the requirements, standards and recommendations of the Design Review Committee and is approved by the Adams County Health District and all other applicable governmental authorities. Individual Lots may require additional sewage treatment facilities based on soil types and hydrology conditions, the determination of which shall be the responsibility of the Lot Owner. All such facilities shall be adequately maintained so as to cause no offensive odors or aboveground discharge.

4.11 Fire Protection. A fire hydrant system has been installed for fire protection for the Property. To enable access by the local fire protection agency, all private driveways which extend more than 150-feet from the nearest access road must be a minimum of 20-feet wide and have a maximum 7% grade. Adams County Fire and Building Codes may require a Lot Owner to install additional fire protection measures on said Owner's Lot or within the Improvements on said Lot. Construction of all Improvements must comply with Adams County Fire and Building Codes.

4.12 No Hazardous or Offensive Activities. No activities shall be conducted on the Property and no Improvements constructed on any Lot which might be unsafe or hazardous to any person or property. No firearms shall be discharged upon any Lot or the Property. No hunting shall be allowed at any time on the Property. No open fires shall be lighted or permitted on any portion of any Lot, except those controlled and attended fires required for clearing or maintenance of land, and previously approved in writing by the Board and applicable regulatory agencies, or those within a contained and safe area for cooking and recreational purposes. No fireworks of any kind at any time shall be discharged.

4.13 Unsightly Articles. Trailers, motor homes, trucks (other than pickups), boats, tractors, vehicles (other than automobiles), campers (on or off a vehicle), snowmobiles, snow removal equipment, garden or maintenance equipment, camping and recreational equipment, dilapidated or unrepaired vehicles and similar equipment shall be stored in a neat and orderly fashion at all times. All vehicles must be operational and must have current licenses.

Refuse, garbage and trash shall be kept in a covered container and appropriately screened from view at all times. No lumber, grass, shrub or tree clippings, compost piles or plant waste, metals, bulk materials, unused building materials, or refuse or trash or other materials shall be kept, stored or allowed to accumulate on any Lot unless appropriately screened from view. Firewood shall be stored in a neat and orderly fashion.

4.14 Temporary Structures. No temporary structure or Improvement shall be placed upon any Lot. However, a well-built temporary structure or trailer will be permitted to be used during construction of Improvement(s) on a Lot, provided it is located on the Lot on which construction of Improvement(s) is occurring, and it shall be removed within 14 days of substantial completion of the Improvement, but in no event shall any temporary structure or trailer remain on any Lot for more than 1 year.

4.15 No Mining or Drilling. Except as provided in paragraph 4.10, no property shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing water, oil, gas or other hydrocarbons, minerals, rocks, stones, gravel or earth, except that the Association may, by appropriate permit, grant, license or by easement, allow the drilling of wells for the extraction

of water for domestic use and gardening and landscape irrigation if such use is in accordance with applicable governmental authorities.

4.16 Vehicles. The use of all on and off-road vehicles, including, but not limited to, trucks, automobiles, motorcycles, snowmobiles, ATV's, "dirt bikes" and other "off-road" type recreational vehicles shall be confined to designated roadways only. Ingress and egress to adjacent lands shall be allowed only through existing private and County roads. The Board shall have the right to adopt further rules and regulations concerning the use of on and off-road vehicles on the Property.

Unless otherwise posted, the speed limit on all Association roads is 15 miles per hour. The Board may, from time to time, establish additional rules concerning the use of Association roads, including the posting of signs and street name signs.

The Idaho Vehicle Code shall be enforced on all Association roads, Improvements, easements and Common Areas.

4.17 Building Footprints. Building Footprint(s) of the House and up to 3 Outbuildings shall be wholly contained within the Homesite of each Lot as designated on the Plat.

4.18 Landscaping. Within 180 days after substantial completion of an Owner's residence (unless such time is extended by the Design Review Committee), such Owner shall install the landscaping as provided for the Landscape Plan as approved by the Design Review Committee or shall restore all areas disturbed by construction to their pre-existing condition and shall thereafter maintain the landscaping in a weed-free and well-maintained condition. Landscaping is limited to the Homesite. All areas outside the Homesite disturbed during construction shall be re-established with native vegetation. Trees, shrubs, and grasses for landscaping and re-vegetation shall be selected from the Landscape Materials List as provided by the Design Review Committee. Sod will be allowed only in the Homesite. Pastures shall be planted and maintained with native grasses. Vegetation shall be maintained in accordance with local fire protection recommendations.

Every Owner, whether or not their Lot contains any Improvements, shall take all action necessary to restrict the growth of, and to remove, noxious weeds and grasses in accordance with all applicable local state and federal requirements. Whenever practical, weed control actions shall not be chemically dependent, but shall utilize plantings and other means of control. The control and maintenance of noxious weeds using chemical control methods shall be in accordance with United States EPA label restrictions.

The Board may adopt additional rules regulating landscaping, including maintenance and fire mitigation. If any Owner shall fail to install and maintain landscaping in conformance with these rules or shall allow their landscaping to deteriorate to a dangerous, unsafe, unsightly, or unattractive condition, or shall fail to remove noxious weeds and grasses as required above, the Board, upon 30 days prior written notice to such Owner, shall have the right to correct such condition and to enter upon such Owner's property for the purpose of doing so, and such Owner shall promptly reimburse the Association for the cost thereof. Such cost shall create a lien enforceable in the same manner as other Assessments, as set forth in this Declaration.

4.19 Construction Debris. No Owner shall allow any person or persons constructing Improvements upon their Lot (or providing similar services) to deposit rubbish or debris of any kind or to allow litter to accumulate in excess of normal construction practices.

4.20 Violation of Property Restrictions. There shall be no violation of the Association Rules or the Design Review Committee Rules. If any Owner, their family, or any licensee, lessee or invitee is in violation thereof, the Board may, in addition to any other legal remedies it may have, impose a special assessment upon such person(s) of not more than One Hundred Dollars (\$100.00) per day for each violation and/or may suspend the right of such person(s) to use the Association Easements, under such condition as the Board may specify, for a period not to exceed one year for each violation. Before invoking any such assessment or suspension, the Board shall give such person reasonable notice of the violation and a reasonable opportunity to cure the violation and/or to be heard regarding the violation, and/or any assessment or suspension of rights. Any assessment imposed which remains unpaid for a period of 10 days or more, shall become a lien upon the Owner's Lot and the Improvements thereon.

4.21 Existing Vegetation/Utility Installation. "Vegetation" shall mean trees, shrubs and grasses of all types, whether natural or planted, and whether maintained by the Owner or the Association. No existing native vegetation shall be over-irrigated to the extent that it is damaged or dies. To minimize impacts to existing vegetation, all utilities, Improvements, hookups, wires, pipes, conduit, lines, cables and the like shall follow the designated driveway to the Homesite, even if the distance is longer, unless otherwise approved by the Board.

4.22 Existing Wildlife Management. The Property will be managed to promote wildlife. The goal will be to maintain and enhance wildlife populations through a variety of management techniques including: restoration, establishment and maintenance of native vegetation, natural drainage of water and grass meadows; controls on dogs and/or other animals; to prohibit wildlife harassment, restrictions on artificial feeding programs, bans on hunting, and controls on the installation of fencing.

4.23 Timber and Existing Vegetation Removal. Commercial timber removal shall not be allowed. Existing vegetation removal and selected timber removal on individual Lots shall be allowed with approval of the Board. Plans for timber and existing vegetation removal for building construction, driveway corridors and view corridors must be submitted for review and approved by the Board prior to any removal activity and shall comply with landscaping and re-vegetation requirements.

ARTICLE 5 PERMITTED USES AND IMPROVEMENTS

5.1 Permitted Uses. All of the Lots in the Property shall be improved and used solely for residential use, and shall comply with Adams County rules and regulations regarding the same.

5.2 Improvements. All Improvements of any kind shall require written approval of the Design Review Committee (DRC) in accordance with the terms hereof and the Design Review Committee Rules. If the House is not the initial Improvement, any other Improvement(s) is subject to the approval of the DRC.

5.2.1 The House and up to three Outbuildings may be constructed within the Homesite. Additionally, garden walls, fences and landscaping may be constructed within the Homesite.

5.2.2 One Accessory Dwelling, not to exceed 800 square feet Net Floor Area, may be located in an Outbuilding.

5.2.3 Improvements outside the Homesite are limited to private roads, fences, garden walls, gates and native plant species planted in a natural manner as approved by the DRC.

5.2.4 Private roads and all utilities upon any Lot for the transmission of utilities, telephone service, audio/visual reception, all fuel tanks and all pipes for water, gas, sewer, drainage, or other utility purposes shall be installed and maintained in the private road easement and the Homesite below the surface of the ground or screened from view.

5.2.5 Sports Courts. No tennis, squash, paddle tennis, basketball or other sports area or structure shall be illuminated.

5.2.6 Certain Lots may benefit from the further development of view corridors by the selective removal of trees. View corridors have been planned to provide views from each Homesite. Prior to tree removal, an on-site review by the DRC shall be performed to determine the impact of corridor construction on the privacy to neighboring Lots, extent of timber removal planned, erosion potential to soils, re-vegetation needs and the effect on wildlife habitat.

5.2.7 Construction of each Improvement on any lot shall be pursued diligently and continuously from time of commencement thereof until the exterior of each structure is fully completed, each of which shall be completed within 24 months of commencement of construction unless prevented by cause beyond the control of Owner or builder, and then only for the period such cause continues.

5.2.8 No House shall be used for any purpose other than as a single-family residence. No automobile garage shall be used as living quarters at any time. An Accessory Dwelling may be adjacent to, above, or part of an automobile garage. No business, profession, trade, or other nonresidential use that requires the visitation of clients, customers and/or storage of materials and supplies for use in a trade or business shall be conducted on any Lot, except as approved by the Board. Residential buildings must be rented together to the renting party (i.e., the buildings may not be rented separately). No guest house or domestic help quarters shall be rented separately from the residence.

5.2.9 Nothing in this Declaration shall prevent the rental of property by the owner for residential purposes; provided, however, that any rental of property for residential or lodging purposes shall be subject to all applicable Association covenants, conditions, restrictions, rules, regulations, policies, and procedures, including all gate access rules and procedures applicable to Owners, visitors, and vehicles accessing the Property.

5.2.10 To the fullest extent permitted by Idaho law, no property may be rented by an Owner for transient lodging or hostel purposes unless that rental is for a term of more than 30 days. This restriction on short-term property rentals shall be expressly enforceable and binding:

- (1) on all Lots and current Owners who have expressly approved the restriction in writing, for so long as they hold an interest in the affected property; and,

(2) on all Lots and subsequent Owners who acquired their interest in a property after their predecessor in interest or prior Owner expressly approved the restriction in writing as the owner of the affected property.

A list of Lots that have expressly approved the foregoing restriction is attached hereto as **Addendum 1**, which addendum may be amended from time to time. The current list of Lots that have expressly approved this binding restriction on short-term property rentals shall be maintained by the Secretary of the Association. A copy of the list shall be provided to any Owner upon demand with reasonable notice.

5.3 Private Roads (Driveways). All private roads, driveways and parking areas constructed on the Lots by Individual Owners shall be constructed of gravel, decomposed granite, concrete, brick pavers or asphalt paving, or such other material as approved by the Design Review Committee and shall be located within private road easement and driveway locations approved by the DRC, and the Homesite. In all events, all such private roads and driveways will/shall be constructed to meet minimum County and local fire protection standards. All such private roads and driveways shall be at grade, or where required to exceed grade, shall be culverted to allow free flow of water. In the event any adjoining Owners enter into an agreement to share driveways or private roads over any Lot owned by such Owners, said owners shall enter into a maintenance agreement setting out their respective rights and duties.

ARTICLE 6

HIGHLAND ESTATES HOMEOWNERS ASSOCIATION, INC.

6.1 Association. The Association is a non-profit Idaho corporation charged with the duties and vested with the powers prescribed by law and as set forth in its Articles, Bylaws, and this Declaration. Neither the Articles nor the Bylaws shall for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

6.2 Membership.

6.2.1 Qualifications. Each Owner, by virtue of being such an Owner and for so long as they are such an Owner, shall be deemed a member of the Association. Each Lot shall have one membership, and joint Owners of a Lot shall share that membership.

6.2.2 Transfer of Membership. The Association membership of each Owner shall be appurtenant to said Lot and shall not be severed, transferred, pledged or alienated in any way, except in conjunction with the transfer of legal and equitable title to said Lot, and then only to the transferee of such title. Any attempt to make a prohibited transfer shall be void. Any transfer of legal and equitable title to said Lot shall operate automatically to transfer said membership to the new Owner thereof.

6.3 Voting.

6.3.1 Number of Votes. The Association shall have one class of voting membership, which shall consist of all Owners, who shall be entitled to one vote for each Lot owned. The Owner of each Lot may, by notice to the Association and signed proxy, designate a person (who need not be an Owner) to exercise the vote for such Lot. Said proxy shall be revocable by the Owner at any time by notice to the Association. Such proxy may be granted or revoked by the guardian, by the parent entitled to their custody, or during the administration of an Owner's estate, by their personal representative or

administrator where the deceased Owner's interest in said property is subject to estate administration.

6.3.2 Joint Owner Disputes. The vote for each such Lot shall, if at all, be one. and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote shall be cast, they shall lose their right to vote on the matter in question. If any Owner casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he/she/they are acting with the authority and consent of all other Owners of the same Lot.

6.3.3 Meetings of Owners. There shall be a meeting of the Owners on the second Saturday of June each year at such place within Adams County or Valley County, Idaho, or time (not more than 30 days before or after such date) as may be designated by notice of the Board given to the Owners by depositing the same in the United States mail, postage prepaid, not less than 15 nor more than 60 days prior to the date fixed for said meeting. A special meeting of the Owners may be called at any reasonable time and place within Adams County or Valley County, Idaho by notice of the Board or by the Owners having 20% of the total votes and delivered to all other Owners not less than 15 days prior to the date fixed for said meeting. The presence at any meeting, in person or by proxy, of the Owners entitled to vote at least a majority of the total votes shall constitute a quorum.

The president of the Association (or the vice president, in their absence) shall act as chair of all meetings of the Owners, and the secretary of the Association (or an assistant secretary thereof in their absence) shall act as secretary of all such meetings. Members of the Board shall be elected by non-cumulative voting. At each annual meeting, the Board shall present a written accounting of the funds received by the Association, itemizing receipts and disbursements for the preceding fiscal year and the allocation thereof to each Owner.

6.4 Board of Directors and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint, in accordance with the articles and the Bylaws of the Association, as the same may be amended from time to time.

6.5 Powers and Duties of the Association.

6.5.1 Powers. The Association shall have all the powers of a non-profit corporation organized under the general non-profit corporation laws of the State of Idaho, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws and this Declaration and exhibits to this Declaration. It shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under this Declaration and exhibits thereto, the Articles and the Bylaws, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the proper management and operation of the Association Easements and the performance of the other responsibilities herein assigned, including, without limitation:

(1) Assessments. The power to levy Assessments on the Owners of Lots and to force payment of such Assessments, all in accordance with the provisions of this Declaration.

(2) Right of Enforcement. The power and authority from time to time in its own name, on its own behalf or on behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or the Articles or the Bylaws, including the Association rules adopted pursuant to this Declaration, and to enforce by mandatory injunction or otherwise.

(3) Delegation of Powers. The authority to delegate its power and duties to committees, officers, employees or to any person, firm or corporation to act as manager, and to contract for the maintenance, repair, replacement and operation of Association Easements. Neither the Association nor the members of its Board shall be liable for any omission or improper exercise by the person to whom the authority was delegated of any such duty or power to delegated.

(4) Association Rules. The power to adopt, amend and repeal by majority vote of the Board such rules and regulations as the Association deems reasonable (the Association Rules). The Association Rules shall govern the use of Association Easements, including, but not limited to, the private roads by the Owners, by the families of the Owners, or by an invitee, licensee, lessee or contract purchaser of an Owner; provided, however, that the Association Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or the Bylaws. A copy of the Association Rules, as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner. Upon such mailing or delivery and posting, said Association Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration. In the event of any conflict between any such Association Rules and any other provision of this Declaration, or the Articles or Bylaws, the provisions of the Association Rules shall be deemed to be superseded by the provisions of this Declaration, the Articles or the Bylaws to the extent of any such inconsistency.

(5) Emergency Powers. The Association or any person authorized by the Association, may enter upon any Lot in the event of any emergency involving illness or potential danger to life or property, or when necessary in connection with any maintenance or construction for which it is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Association.

(6) Licenses, Easements and Rights-of-Way. The power to grant and convey to any third party such licenses, easements and rights-of-way in, on or under any non-exclusive Association Easement as may be necessary or appropriate for the orderly maintenance, preservation and enjoyment thereof and for the preservation of the health, safety, convenience and welfare of the Owners, for the purpose of constructing, erecting, operating, or maintaining:

(a) Underground lines, cables, wires, conduits or other devices for the transmission of electricity for lighting, heating, power, telephone and other purposes;

(b) Common sewers, storm drains, water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes; and

(c) Any similar public or quasi-public improvements or facilities.

(7) Legal and Accounting Services. To retain and pay for legal and accounting services necessary or proper for the operation of the Association, enforcement of the Governing Documents, or performance of any other duties or rights of the Association.

(8) Fines and Penalties. The Board is authorized to impose monetary penalties and fines, and to impose temporary suspension from voting and other privileges of Association membership for any period during which any assessment remains unpaid and for a reasonable period for any violation of the Association's Governing Instruments or published rules and regulations. Fines and penalties may be imposed in amounts to be provided in Rules and Regulations published by the Board. Fines and penalties may be assessed only against a Member of the Association; and only if the violator is the Member or a member of the Member's family or a guest, invitee, lessee, contractor, subcontractor, employee or agent of the Member; and, only in compliance with Idaho law. Fines and penalties may be increased in the case of a continuing violation, where the Member has failed to abate the violation within the time allowed therefore by the Board in written notice to the Member. Non-payment of assessments shall not subject a Member to fines; rather, the remedy therefore shall be as otherwise provided herein and in the Declaration.

6.5.2 Duties of the Association. In addition to the power delegated to it by the Articles, without limiting the generality thereof, the Association or its agent, 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:

(1) Operation, Maintenance of Association Easements. Operate, maintain and otherwise manage or provide for the operation, maintenance and management of the Common Areas and Association Easements, including the repair and replacement of property damaged or destroyed by casualty loss and all other property acquired (by easement or otherwise) the Association. The Board, on behalf of the Association, may contract for the operation, management and maintenance of Association Easements. The Association shall also take such actions and arrange for such maintenance as may be necessary or desirable for the upkeep of landscape, roads, and all other easements.

(2) Taxes. To pay all real property taxes and assessments which are or could become a lien on any property owned by the Association.

(3) Insurance. Unless otherwise determined by the Board, obtain from reputable insurance companies authorized to do business in the State of Idaho and maintain in effect the following policies of insurance:

(a) Fire insurance including those risks embraced by coverage of the type now known as "all risk" or special extended coverage endorsement on a blanket, agreed-amount basis for the full insurable

replacement value of all Improvements, equipment and fixtures located within the Association Easements managed by it.

(b) Comprehensive public liability insurance insuring the Board, the Association, and the individual Owners and agents and employees of each of the foregoing against any liability incident to the use of the Association Easements managed by it. Limits of liability of such coverage shall be as follows: Not less than One Million Dollars (\$1,000,000) per person and One Million Dollars (\$1,000,000) per occurrence with respect to personal injury or death, and property damage.

(c) Full coverage directors' and officers' liability insurance with a limit of Two Hundred Fifty Thousand Dollars (\$250,000).

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

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

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

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

(5) Design Review Committee. Appoint and remove members of the Design Review Committee: subject to the provisions of this Declaration.

(6) Enforcement of Governing Documents. 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.

(7) Roads. To snowplow and maintain, or provide for the snow plowing and maintenance of all roads and culverts, which are the subject of Association Easements and to keep all Improvements in good order and repair as is necessary to maintain such easements in a neat and usable condition, and to participate in any joint maintenance arrangement necessary to maintain access roads to the Property.

6.6 Board Rules. The Board may adopt such rules as it deems proper to enable it to properly perform its duties hereunder. A copy of said Rules, as they may from time to time be adopted, amended or repealed, may (but need not) be mailed or otherwise delivered to each Owner of record at Adams County or owner's agent or designee. Upon such mailing, delivery or recording,

said Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration.

6.7 Personal Liability. No member of the Board, or any committee of the Association, or any officer of the Association, or any member of the Design Review Committee, or the manager of the Association, if any, shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on the account of any act, omission, error or negligence of the Association. the Board, the manager, if any, or any other representative or employee of the Association, provided that such person has, upon the basis of such information as may be possessed by them, acted in good faith without willful or intentional misconduct.

6.8 Budgets and Financial Statements. Financial Statements for the Association shall be regularly prepared, and copies shall be distributed to each Owner of the Association as follows:

6.8.1 An operating budget for each fiscal year shall be distributed prior to the beginning of each fiscal year, preferably at the annual meeting of the Members.

6.8.2 Within 60 days after the close of each fiscal year, the Association or its agent shall cause to be prepared 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 its fiscal year. Copies of said documents shall be distributed to each Owner within 60 days after the end of each fiscal year.

6.9 Amendment. The provisions of sections 6.1, 6.2 and 6.3 hereof may only be amended with the unanimous vote or written consent of all the Owners entitled to vote.

ARTICLE 7 ASSESSMENTS

7.1 Covenant to Pay Assessments. Each Owner hereby, and by acceptance of a deed to a Lot, covenants and agrees to pay when due all Regular and Special Assessments, fines or charges (collectively "Assessments") made by the Association. Such Assessments, together with interest, costs and reasonable attorney's fees, which may be incurred in collecting same, shall be a charge on the land and shall be a continuing lien upon the Property against which each such Assessment 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 at the time the Assessment is due. The personal obligation for delinquent Assessments shall not pass from the Owner to their successor in title unless expressly assumed by them.

7.2 Assessments.

7.2.1 **Regular Assessments.** Prior to the beginning of each fiscal year, the Board shall estimate the total amount of funds necessary to defray the expenses of the Association for the next fiscal year and shall assess the Owner of each lot 1/34 of such total amount in July for the next fiscal year. Regular assessments shall include an amount allocated to an adequate reserve fund which is to be established for maintenance, repairs, and replacement of the Common Areas and the Association's Easements. The Regular Assessment shall be paid by each Owner of a Lot as provided in section 7.5.

7.3 Special Assessments.

7.3.1 In the event that the Board shall determine that the Regular Assessment for a given fiscal year is or will become inadequate to meet the expenses of such Association for any reason, including, but not limited to, costs of maintenance and unexpected repairs upon the Association Easements, the Board shall determine the approximate amount necessary to defray such expenses and levy a Special Assessment. The Board may, at its discretion, pro-rate such Special Assessment over the remaining months of the fiscal year or levy such Assessments over the remaining months of the fiscal year or levy such Assessments immediately against each Lot.

7.3.2 Every Special Assessment shall be levied upon the same basis as that prescribed for the levying of Regular Assessments.

7.4 Uniform Rate of Assessment. Unless otherwise specifically provided herein, Regular and Special Assessments must be fixed at a uniform rate for all Owners.

7.5 Assessment Period. The Regular Assessment period shall commence on July 1 of each year and terminate June 30 of the following year.

7.6 Notice and Assessment Due Date. Ten days' prior written notice of Regular and Special Assessments shall be sent to the Owner of every Lot subject thereto. The due dates for Regular Assessments and Special Assessments shall be established by the Board. Each installment of the Regular Assessment or Special Assessment shall become delinquent if not paid within 30 days after the levy thereof. There shall accrue with each delinquent installment and Special Assessment a late charge of Twenty-five Dollars (\$25.00), together with interest at the lesser of 10% or the maximum rate permitted by law calculated from the date of delinquency to and including the date full payment is received by the Association. The Association making the Assessment may bring an action at law against the Owner personally obligated to pay the same to foreclose the lien against said owner's Lot as provided in this Declaration. Each Owner is personally liable for said Assessments, and no Owner of any Lot may exempt himself from liability for their contribution by a waiver of the use or enjoyment of any of the Association Easements or by abandonment of their Lot.

7.7 Estoppel Certificate. The Association, upon not less than 20 days' prior written request, shall execute, acknowledge and deliver to the party making such request a statement in writing stating whether or not, to the knowledge of such Association, a particular Owner is in default under the provisions of this Declaration, and further stating the dates to which Assessments have been paid by said Owner, it being intended that any such certificate delivered pursuant to this section may be relied upon by any prospective purchaser or mortgagees of said Owner's Lot, but reliance on such certificate may not extend to any default as to which the signer shall have had actual knowledge.

7.8 Special Notice and Quorum Requirements. Notwithstanding anything to the contrary contained in either the Bylaws or the Articles, written notice of any meeting called for the purpose of either levying a Special Assessment pursuant to this Article, or for the purpose of obtaining a membership vote in connection with an increase in the Regular Assessment pursuant to this Article, shall be sent to all Owners of such Association not less than 30 days, nor more than 60 days, in advance of the meeting. Owners (or their proxies) of Lots totaling 60% of the total voting power of such Association shall constitute a quorum. If the required quorum is not

present, another meeting may be called, subject to the same notice requirement, and the required quorum at the subsequent meeting shall be Owners (or their proxies) of Lots totaling 50% of the total voting power of the Association. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

ARTICLE 8

ENFORCEMENT OF ASSESSMENTS: LIENS

8.1 Right to Enforce. The right to collect and enforce the Assessments made by the Association is vested in the Association. Each Owner of a Lot upon becoming an Owner of such Lot, is and shall be deemed to covenant and agree to pay each and every Assessment provided for in this Declaration and fines imposed for violation of the Governing Documents; and agrees to the enforcement of all Assessments and fines 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 or any other relief or remedy obtained against said Owner. The Board or its authorized representative may enforce the obligations of the Owners to pay the Assessments and fines provided for in this Declaration by commencement and maintenance of a suit, at law or in equity, or such Board may exercise the power of sale pursuant thereto 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 for.

8.2 Assessment Lien.

8.2.1 Creation. There is hereby created a claim of lien with power of sale in favor of the Association on each and every Lot to secure payment of any and all Assessments levied against any and all Lots in the Property pursuant to this Declaration, together with interest thereon at the lesser of ten percent (10%) or the maximum rate permitted by law, fines imposed for violation of the Governing Documents, and all costs of collection which may be paid or incurred by the Association making the Assessment in connection therewith, including reasonable attorney's fees. All sums assessed in accordance with the provisions of this Declaration shall constitute a lien on said Lots(s) upon recording a claim of lien with the County Recorder. Said lien shall be prior and superior to all other liens or claims created subsequent to the recording of the notice of delinquency and claim of lien, except for tax liens for real property taxes on any Lot and any assessment on any Lot in favor of any municipal or other governmental assessing body which, by law, would be superior.

8.2.2 Claim of Lien. Upon default of any Owner in the payment of any Regular or Special Assessment required hereunder, the Association may cause to be recorded in the Office of the County Recorder in Adams County a claim of lien. Said 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 against which the same has 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. 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 and relief of such delinquent sums and charges. The Association may demand and receive the cost of recording such release before recording the same. Any purchaser or encumbrancer, acting in good faith and for value, may rely upon such notice of satisfaction and relief as conclusive evidence of the full satisfaction of the sums paid in the notice of delinquent sums.

8.3 Method of Foreclosure. Such lien may be foreclosed by appropriate action in court or by exercise of the power of sale by the Association, its attorney or other person authorized to make the sale, such sale to 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 as 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 foreclosure.

8.4 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 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 described in such notice of delinquency and claim of lien, and a copy of the Assessment is recorded in the Office of the County Recorder of Adams County.

8.5 Subordination to Certain Trust Deeds. The lien for the Assessment provided for herein in connection with a given Lot shall not be subordinated 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 Assessment(s). Except as expressly provided in this Article 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 prior to, 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.

8.6 Rights of Mortgagees. Notwithstanding any other provision of this Declaration, no amendment of this Declaration shall operate to defeat and render invalid the rights of the beneficiary under any deed of trust or mortgage 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.

ARTICLE 9

INSPECTION OF ASSOCIATION'S BOOKS AND RECORDS

9.1 Owner's Right of Inspection. The membership register, books of account and minutes of meetings of the Board and committees of the Association shall be made available for inspection and copying by any Owner, at the Owner's expense, or by their duly appointed representatives, at the office of the Association or at such other place within the Property as the Board of such Association shall prescribe, at any reasonable time and for a purpose reasonably related to their interest as an owner.

9.2 Rules Regarding Inspection of Books and Records. The Board shall establish reasonable rules with respect to:

9.2.1 Notice to be given to the custodians of the records by the persons desiring to make the inspection.

9.2.2 Hours and days of the week when such inspection shall take place.

9.2.3 Payment of the cost of reproducing copies of documents requested pursuant to this article.

9.3 Director's Right of Inspection. Every current member of the Association's Board of Directors shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association of which they are a Director and the physical properties owned or controlled by such Association. The right of inspection by a Director includes the right to make copies of documents.

ARTICLE 10 DESIGN REVIEW COMMITTEE

10.1 Members of Committee. The Design Review Committee (sometimes referred to as "DRC") shall consist of three members, who shall be appointed by the Board in the Board's discretion. The Board shall have the right to replace a DRC member at any time. Each DRC member shall hold office until such time as they have resigned or have been removed, and a successor has been appointed, as provided herein.

10.2 Duties of DRC.

10.2.1 No changes in the existing state of any Lot within the Property shall be made or permitted without the prior written approval of the Design Review Committee.

10.2.2 The DRC chairperson shall provide a summary to the Board of applications filed and any related issues at least monthly when there is activity with the DRC.

10.2.3 The Board shall issue DRC Rules setting forth procedures for the submission of plans for approval, that may require a fee to accompany each application for approval or additional factors which it will take into consideration in reviewing submissions and additional standards for approval. The DRC Rules may be amended as follows: the DRC may propose amendments to the Board, or the Board may adopt amendments of their own volition. Any amendments to the DRC Rules shall apply to construction and modification of structures and improvements commenced after the date of such amendment only and shall not apply to require modifications to or removal of Improvements previously approved once the approved construction or modification has commenced; provided, the construction or modification has proceeded in accordance with the plans and specification therefore, as approved. The DRC shall make the DRC Rules available to Owners and builders who seek to engage in development or construction within the Property, and all such Persons shall conduct their activities in accordance with such DRC Rules. The burden shall be on the Owner and the builder to ensure that they have the most current DRC Rules.

10.2.4 The Design Review Committee shall have sole authority to determine the proper use, appearance, design and aesthetic quality of any proposed Improvement. For purposes of this paragraph, "changes in the existing state" of any Lot include, but are not limited

to: construction of dwellings, Improvements (including utilities), the excavation, alteration, filling or similar disturbance of the surface of the land (including, without limitation, change of grade, stream bed, ground level or drainage pattern), the clearing, marking, defacing or damaging of trees, shrubs or other vegetation, the landscaping or planting of trees, shrubs, lawn or plants, and the proposed use of a Lot other than as a single family residence, and any change in color, texture or exterior appearance of any previously approved change in the existing state of Property.

10.2.5 The DRC shall consider and act upon any and all proposals or plans and specifications submitted for its approval pursuant to the terms of this Declaration and the DRC Rules, 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 approve by the DRC.

10.2.6 The Design Review Committee shall have the authority to maintain a list of approved construction materials and to add or subtract therefrom, from time to time. The DRC may condition its approval of proposals or plans and specifications or other information prior to approving or disapproving materials submitted. The Design Review Committee may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, landscape plans, drainage plans, elevation drawings and/or samples of exterior material and colors and sworn affidavits as to intended use of the proposed Improvement(s).

10.2.7 Any Owner desiring DRC approval of any Improvement or other change in the existing state of any Lot shall make application in writing, in accordance with the DRC Rules, for DRC review. All approvals and disapprovals shall be in writing. Until receipt by the Design Review Committee of any required plans and specifications, the Design Review Committee may postpone review of any plan submitted for approval.

10.3 Form of Approval or Disapproval:

10.3.1 All approvals given by the DRC shall be in writing.

10.3.2 In disapproving any plans and specifications or other documents the DRC shall specify, in writing, the deficiencies it has relied upon in rendering such disapproval and shall give the applicant the right and opportunity to resubmit their plans and specifications or other documents in amended form. The DRC shall thereafter reconsider such documents as if they were being submitted for the first time.

10.3.3 One set of plans and specifications as finally approved or disapproved shall be retained by the DRC as a permanent record.

10.3.4 Nothing contained in this Section shall be deemed to relieve the owner of any parcel from complying with all of the provisions of this Declaration or with the provisions of all applicable building codes, zoning regulations, or other governmental regulations or laws governing the lands within this development

10.4 Dispute Resolution: In the case of any challenge to a decision of the DRC, the decision shall be reviewed by the Board of Directors. In the case of any challenge to a decision of the Board, the decision shall be upheld unless it is found by clear and convincing evidence that the Boards' decision is: (i) in express violation of this Declaration or any other Governing Document, rules or regulations; (ii) in express violation of an applicable federal, state, county or

district statute, ordinance or regulation; or, (iii) arbitrary, capricious, unreasonable and oppressive.

10.5 Proceeding with Work: Upon receipt of approval from the DRC for a Level II Design Review project (as defined in the DRC Rules), the owner shall, as soon as practicable, satisfy all the conditions thereof and diligently proceed with the commencement of all construction, reconstruction, refinishing, alterations and excavations authorized by such approval, said commencement to be in all cases within one (1) year from the date of such approval. If the Owner shall fail to comply with this Section, the approval given by the DRC shall be deemed revoked, unless the DRC upon written request of the Owner made prior to the expiration of said one (1) year period extends the time for such commencement. No such extensions shall be granted except upon a finding by the Design Review Committee that there has been no change in the circumstances upon which the original approval was granted.

10.6 No Waiver of Future Approvals. The approval of the Design Review Committee to any proposals or plans and specifications, or drawings for any work done or proposed or in connection with any other matter requiring its approval and consent, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matter subsequently or additionally submitted for approval or consent.

10.7 Completion of Construction. The Owner shall complete the construction authorized by the DRC approval within two (2) years after the commencement of construction thereof for a Level II Design Review project (as defined in the DRC Rules), and within six months after the approval from the DRC for a Level I Design Review project (as defined in the DRC Rules); except, and only for so long, as such completion is rendered impossible or would result in great hardship to the owner due to strikes, fires, acts of God, unusual wintertime conditions, actual inability of the owner to procure deliveries of necessary material, or by other forces or persons beyond the control of the Owner; and, except as otherwise permitted by the DRC in writing. Financial inability of the Owner or their contractor to secure labor or materials or to discharge liens or attachments shall not be deemed a cause beyond their control. For the purposes of this Section, "Commencement of Construction" for new improvements is defined as the obtaining of the necessary building permits and the excavation of earth for a foundation, and for all other improvements is defined as the undertaking of any visible exterior work. Completion of construction shall include the removal of all heavy equipment utilized during the construction period.

10.8 Final Inspection of Work. Inspection of work and correction of defects therein shall proceed as follows:

10.8.1 Upon the completion of any work for which approved plans are required under this Article, the Owner shall give notice of completion to the Design Review Committee.

10.8.2 Within 60 days thereafter, the Design Review Committee, or its duly authorized representative, may inspect such Improvement. If the Design Review Committee finds that such work was not done in substantial compliance with the approved plans, it shall notify the Owner in writing of such non-compliance within such 60-day period, specifying the particulars of non-compliance, and shall require the Owner to remedy same.

10.8.3 If, upon the expiration of 30 days from the date of such notification, the Owner shall have failed to remedy such non-compliance, the Design Review Committee shall notify the Board in writing of such failure. Upon Notice and hearing, the Board shall determine whether there is a non-compliance and, if so, the nature thereof and the estimated cost of correcting or removing same. If a non-compliance exists, the Owner shall remedy or remove same within a period of not more than 45 days from the date of announcement of the Board ruling. If the Owner does not comply with the Board ruling within such period, the Board, at its discretion, may correct or remedy the non-complying Improvement, and the Owner shall reimburse the Association, upon demand, for all expenses incurred in connection therewith. If such expenses are not promptly repaid to the Association by the Owner, the Board shall levy an Assessment against such Owner for reimbursement pursuant to Article 7 and Article 8 hereof.

10.8.4 If the Design Review Committee fails to notify the Owner of any non-compliance within sixty (60) days after the receipt of said written notice of completion from the Owner, the Improvement shall be deemed to be in accordance with said approved plans.

10.9 Non-liability of Design Review Committee Members. Neither the Design Review 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 Design Review Committee's duties hereunder, unless due to the willful misconduct or bad faith of such member. The Design Review Committee shall review and approve or disapprove all plans submitted to it for any proposed Improvement, alteration or addition, solely on the basis of its intended use, aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and the Property in general. The Design Review Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features, 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 or any warranty that the Improvement is fit for any particular purpose of habitation.

10.10 Variances. The Board may authorize variances from compliance with any of the architectural provisions of this Declaration, including restrictions upon height, size, floor area, setbacks or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration may require. A variance request shall be submitted to the Design Review Committee, who shall recommend a determination to the Board of Directors, who will make the final determination. Variances must be evidenced in writing and must be signed by at least one member of the DRC and one member of the Board, and shall become effective upon recordation in the office of the County Recorder of Adams County. The DRC and/or the Board may, in its discretion, request input on the variance application from owners within 300' of the subject property. If a variances is granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting their use of the premises, including, but not limited

to, zoning ordinances, the lot set-back lines or requirements imposed by any governmental or municipal authority.

ARTICLE 11 EASEMENTS

11.1 Utility Easement. A non-exclusive utility easement has been reserved over a 12-foot strip of land lying within each Lot and abutting and lying parallel with the subdivision's private road system. Underground electrical and telephone utilities have been installed within the private roads, or within a 12-foot strip of land over each Lot that abuts any such road. The rights and duties of the Owners of the Lots within the Property with respect to utilities shall be governed by the following:

11.1.1 Whenever utility connections, if any, are installed within the Property, which connections or any portions thereof lie in or upon Lots owned by other than the Owner of the Lot served by said connections, said Owner(s) served shall have the right and are hereby granted an easement to the full extent necessary therefor, to enter upon the Lots or to have their agent enter upon the Lots within the Property in or upon which said connections or any portion thereof lie, to repair, replace and generally maintain said connections as and when the same may be necessary.

11.1.2 Whenever utility connections, if any, are installed within the Property, which connections serve more than one Lot, the Owner of each Lot served by said connections shall be entitled to full use and enjoyment of such portions of said connections as service Owner's Lot.

11.2 Private Road Easements. Notwithstanding anything in Article 4 to the contrary, for any Lot over which an unplatted road exists at the date hereof, the Owner of any such Lot may construct a private road or driveway over such existing unplatted road for access to individual Homesites shown on the Plat (easements may occur on these roads).

11.3 Landscape Easement. An easement is hereby reserved to the Association, its contractors and agents to enter portions of Lots for the purpose of pest and weed control.

11.54 No Construction Within Easements. No Improvement shall be made within any easement without the prior written approval of the Design Review Committee.

11.5 Reservation of Easements. For the benefit of the entire Property, reciprocal easements of access, ingress and egress are expressly reserved for all Owners to and from their respective Lots for installation and repair of utility services for drainage of water over, across and upon adjacent Lots and Association Easements resulting from the normal use of adjoining Lots or Association Easements and for necessary landscape, emergency situations and other maintenance. Such easement(s) may be used by the Association and all Owners, their guests, tenants and invitees, residing on or temporarily visiting the Property, for pedestrian walkways, vehicular access and such other purposes reasonably necessary for the use and enjoyment of a Lot or Association Easement.

ARTICLE 12 MISCELLANEOUS

12.1 Term. The covenants, conditions and restrictions of this Declaration shall run until the year 2042 unless amended as herein provided. After such date, such covenants, conditions and

restrictions shall be automatically extended for successive periods of 10 years each, unless amended or extinguished by a written instrument executed by at least 75% of the Owners, and such written instrument is recorded with the Adams County Recorder.

12.2 Amendment.

12.2.1 **By Owners.** The provisions of the Declaration, other than this Article 12, may be amended by an instrument in writing signed and acknowledged by the president and secretary of the Association certifying that such amendment has been approved by the vote or written consent of at least 75% of the Owners. Such an amendment shall be effective upon its recordation with the Adams County Recorder.

12.2.2 **Rights of Beneficiary.** Notwithstanding any other provision of this Declaration, no amendment of this Declaration shall operate to defeat and render invalid the rights of the Beneficiary under any recorded deed of trust or mortgage upon a lot made in good faith and for value, provided that after the foreclosure of any such deed of trust or mortgage, such Lot shall remain subject to this Declaration, as amended.

12.3 Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail, or by e-mail; provided that notice shall not be given by e-mail to any Member who has specified that they do not want to receive notices by e-mail. If delivery is made by mail, it shall be deemed to have been delivered 72 hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or the residence of such person, if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association.

12.4 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purpose of creating a uniform plan for the development and preservation of the Property in a manner designed to protect and enhance the aesthetic and economic value of the Property. This Declaration shall be construed and governed under the laws of the State of Idaho.

12.5 Enforcement and Non-waiver.

12.5.1 **Right of Enforcement.** Except as otherwise provided herein, any Owner of any Lot within the property shall have the right to enforce any or all of the provisions of the Governing Documents upon any Lot within the Property.

12.5.2 **Violations and Nuisance.** Every act or omission whereby any provision of the Governing Documents is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action by the Association or any Owner or Owners of Lots within the Property.

12.5.3 **Violation of Law.** Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Property is hereby declared to be a violation of the Governing Documents, and is subject to any or all of the enforcement procedures set forth in the Governing Documents.

12.5.4 **Remedies Cumulative.** Each remedy provided by the Governing Documents is cumulative and not exclusive.

12.5.5 **Non waiver.** The failure to enforce any of the provisions of the Governing Documents at any time shall not constitute a waiver of the right thereafter to enforce any such provision, or any other provisions of the Governing Documents.

12.6 Construction.

12.6.1 **Governing Documents Construed Together.** All of the provisions of the Governing Documents shall be liberally constructed together to promote and effectuate goals for this Declaration, as set forth in the Recitals.

12.6.2 **Governing Documents Severable.** Notwithstanding the provisions of section 12.6.1, each of the provisions of the Governing Documents shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

12.6.3 **Singular Includes Plural.** Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular.

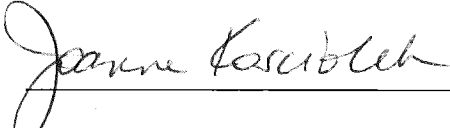
12.6.4 **Captions.** All captions and titles used in this Declaration are intended solely for convenience or reference and shall not affect that which is set forth in any of the provisions hereof.

IN WITNESS WHEREOF the undersigned

(i) certify and attest that, pursuant to Section 12.2.2 of the April 2022 Amended and Restated Declaration Of Protective Covenants, Conditions And Restrictions For Highland Estates Subdivision recorded with the Adams County, Idaho Recorder on ("**April 2022 Declaration**") the foregoing June 2022 Amended and Restated Declaration Of Protective Covenants, Conditions And Restrictions For Highland Estates Subdivision has been approved by Owners representing more than seventy five percent (75%) of the votes in the Association, as follows: 27 of the 34 Owners voted to approve the amendments ; and,

(ii) confirm that these June 2022 Amended and Restated Declaration Of Protective Covenants, Conditions And Restrictions For Highland Estates Subdivision shall replace and supersede the April 2022 Declaration and any amendments thereto.

HIGHLAND ESTATES HOMEOWNERS ASSOCIATION, INC.

By: 

Print Name: JOANNE KOSCIOLEK

Title: President

By: _____

Print Name: JOHN ZARIAN

Title: Secretary

12.5.4 **Remedies Cumulative.** Each remedy provided by the Governing Documents is cumulative and not exclusive.

12.5.5 **Non waiver.** The failure to enforce any of the provisions of the Governing Documents at any time shall not constitute a waiver of the right thereafter to enforce any such provision, or any other provisions of the Governing Documents.

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12.6.1 **Governing Documents Construed Together.** All of the provisions of the Governing Documents shall be liberally constructed together to promote and effectuate goals for this Declaration, as set forth in the Recitals.

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IN WITNESS WHEREOF the undersigned

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(ii) confirm that these June 2022 Amended and Restated Declaration Of Protective Covenants, Conditions And Restrictions For Highland Estates Subdivision shall replace and supersede the April 2022 Declaration and any amendments thereto.

HIGHLAND ESTATES HOMEOWNERS ASSOCIATION, INC.

By: _____

Print Name: JOANNE KOSCIOLEK

Title: President

By:  _____

Print Name: JOHN ZARIAN

Title: Secretary

STATE OF Minnesota
(ss
County of Hennepin)

On this 7 day of September, 2022, before me, a Notary Public in and for said State, personally appeared JOANNE KOSCIOLEK, **PRESIDENT** of the HIGHLAND ESTATES HOMEOWNERS ASSOCIATION, INC, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same for and on behalf of said corporation.

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



[Signature]
NOTARY PUBLIC FOR Minnesota (State)
My Commission Expires: 1-31-25

STATE OF _____,)
(ss
County of _____)

On this _____ day of _____, 2022, before me, a Notary Public in and for said State, personally appeared JOHN ZARIAN, **SECRETARY** of the HIGHLAND ESTATES HOMEOWNERS ASSOCIATION, INC, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same for and on behalf of said corporation.

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

NOTARY PUBLIC FOR _____ (State)
My Commission Expires: _____

STATE OF _____,)
(ss
County of _____)

On this _____ day of _____, 2022, before me, a Notary Public in and for said State, personally appeared JOANNE KOSCIOLEK, **PRESIDENT** of the HIGHLAND ESTATES HOMEOWNERS ASSOCIATION, INC, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same for and on behalf of said corporation.

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

NOTARY PUBLIC FOR _____ (State)

My Commission Expires: _____

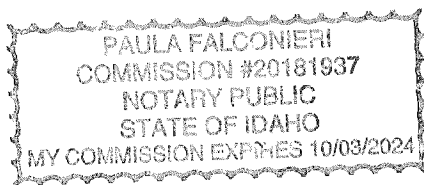
STATE OF Idaho,)
(ss
County of Ada)

On this 28th day of October, 2022, before me, a Notary Public in and for said State, personally appeared JOHN ZARIAN, **SECRETARY** of the HIGHLAND ESTATES HOMEOWNERS ASSOCIATION, INC, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same for and on behalf of said corporation.

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

Paula Falconieri
NOTARY PUBLIC FOR Idaho (State)

My Commission Expires: 10-3-2024



**DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS AND RESTRICTIONS FOR HIGHLAND
ESTATES SUBDIVISION
ADDENDUM 1**

Owners of Lots Subject to Section 5.2.10, Regarding Short Term Rental Restrictions

Name of Owners Voting to Approve Rental Restrictions at Section 5.2.10 in April of 2022		
Lot#	Last Name	First Name
2	Burton	Randle & Brenda
3	Grigione	Melissa
4	Gazdik	Chuck & Tina
6	Arrington	Donald & Wendy
8	Stine	Jim
9	Zarian	John & Leisa
10	Zarian	John & Leisa
12	Jansen	Paul
13	James/Heathman	Thomas & Lisa
15	Church	Dan & Kristy
16	Womack	Dooley & Noreen
17	Womack	Dooley & Noreen
18	Hoversten/Kosciolek	Randy & Joanne
19	Wood	Craig & Barb
20	Toler	Brett & Julie
21	Schrinsky/Watkins	Alex & Becka
22	Toler	Brett & Julie
23	Church	Dan & Kristy
24	Church	Dan & Kristy
26	Twohig	Steve & Denise
27	Clark	Ed & Marlene
28	Neary	Tom & Nancy
29	Neary	Tom & Nancy
30	Hendrix	Kelly & Marie
31	Clarke	Mark & Denise
33	Bresee/Greene	Keith & Sarah