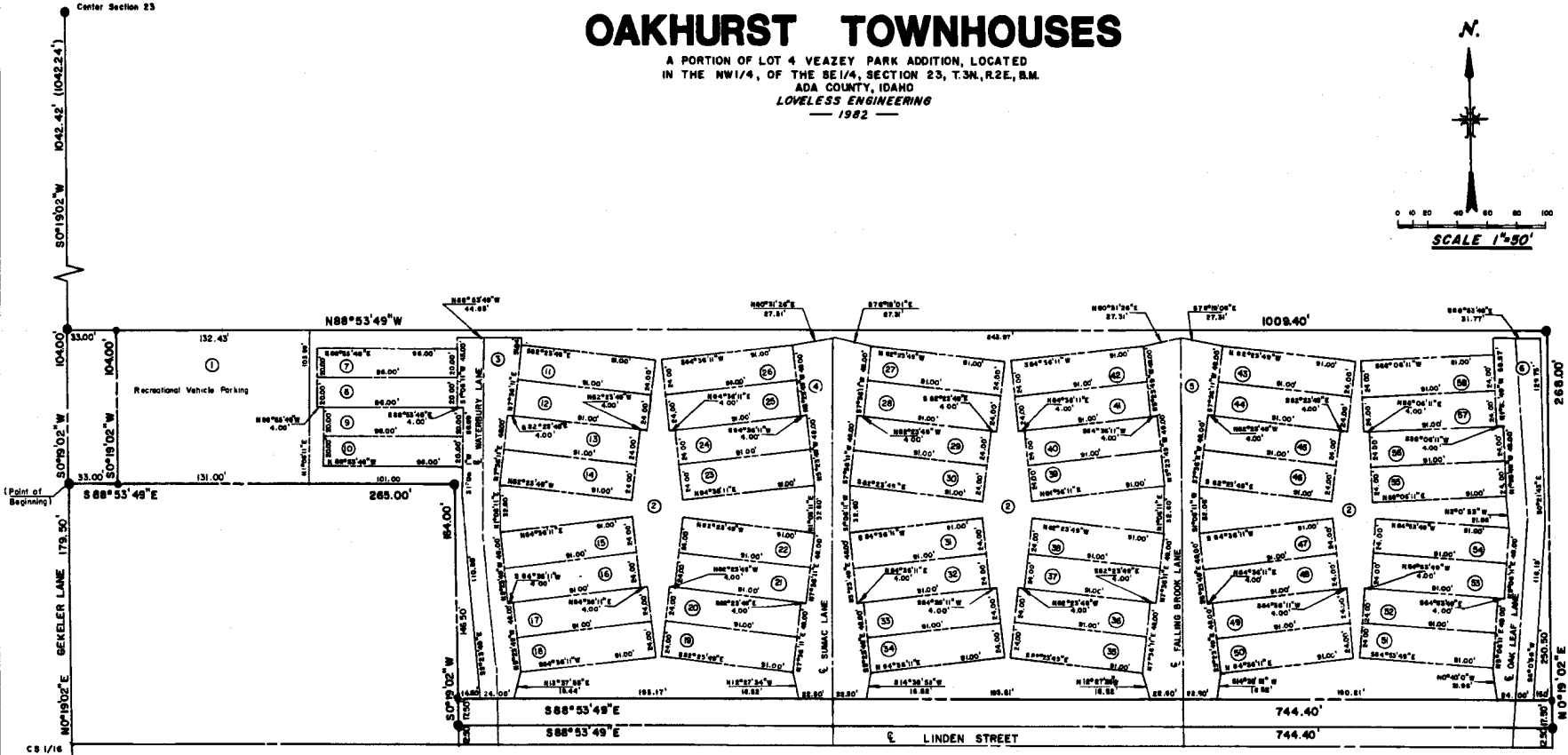
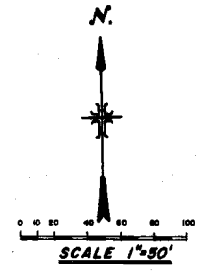




of TitleOne

# OAKHURST TOWNHOUSES

A PORTION OF LOT 4 VEAZEY PARK ADDITION, LOCATED IN THE NW1/4, OF THE SE1/4, SECTION 23, T.3N, R.2E, S.M. ADA COUNTY, IDAHO  
LOVELESS ENGINEERING  
1982



## LEGEND

- 5/8" IRON PIN
- PK NAIL
- PROPERTY BOUNDARY LINE
- - - LOT LINES
- ② OPEN LANDSCAPED AREA
- ④ BRASS CAP
- ① RECREATIONAL VEHICLE PARKING
- ③ thru ⑤ PRIVATE DRIVES
- ⑦ thru ⑨ INDIVIDUAL BUILDING LOTS
- ⑫ LOT NUMBERS

- Notes:
- 1) DEVELOPER WILL COMPLY WITH IDAHO CODE SECTION 31-305 CONCERNING IRRIGATION WATER.
  - 2) MINIMUM BUILDING SETBACK LINES SHALL BE IN ACCORDANCE WITH THE APPLICABLE ZONING REGULATIONS OF BOISE CITY, AND ARE SUBJECT TO ALL CONDITIONS OF CU-149-79
  - 3) FUTURE CONSTRUCTION OF SINGLE FAMILY UNATTACHED RESIDENCES ON THE SUB-STANDARD LOTS IS PROHIBITED.
  - 4) DEVELOPER WILL COMPLY WITH ALL CONDITIONS OF CU-149-79
  - 5) COMMON LANDSCAPE AREA, LOT 2 and PRIVATE DRIVE LOTS 3 thru 6, ARE SUBJECT TO A BLANKET UTILITY AND SANITARY SEWER EASEMENT.
  - 6) AN ELECTRICAL UTILITY EASEMENT IS LOCATED ACROSS PRIVATE BUILDING LOTS IN ALL AREAS NOT COVERED BY STRUCTURES, EACH UNIT MUST HAVE POWER & TELEPHONE.
  - 7) COMMON LANDSCAPE AREA, LOT 2, and PRIVATE DRIVE LOTS 3 thru 6, ARE OWNED & MAINTAINED BY THE OAKHURST HOMEOWNERS ASSOC.
  - 8) A 10' UTILITY AND SANITARY SEWER EASEMENT IS LOCATED ALONG THE BACKSIDE, (non street side), OF EACH INDIVIDUAL BUILDING LOT
  - 9) A 20' SANITARY SEWER EASEMENT IS LOCATED ALONG THE NORTH AND WEST LOT LINE OF LOT 1



# OAKHURST TOWNHOUSES

## CERTIFICATE OF OWNERS

Know all men by these presents that Airway Enterprises Incorporated, an Idaho Corporation, (Gary C. Asin President), is the owner of a portion of Lot 4 of Vaezey Park Addition, according to the official plat thereof, filed in Book 1 of Plats at page 44, records of Ada County, Idaho; and is more particularly described as follows:

Commencing at the center of Section 23, T.3N., R.2E., S.M., Ada County, Idaho, thence S0°19'02"W a distance of 1146.42 feet to the POINT OF BEGINNING,

- thence S88°53'49"E a distance of 265.00 feet to an iron pin,
- thence S0°19'02"W a distance of 164.00 feet to an iron pin,
- thence S88°53'49"E a distance of 744.40 feet to an iron pin,
- thence N0°19'02"E a distance of 268.00 feet to an iron pin,
- thence N88°53'49"W a distance of 1009.40 feet to an iron pin,
- thence S0°19'02"W a distance of 104.00 feet back to the POINT OF BEGINNING.

The streets as shown on this plat are hereby dedicated to the use of the public forever. The easements indicated are not dedicated to the public, but the use of said easements is hereby perpetually reserved for public utilities and such other uses as dedicated hereon and no permanent structures are to be erected within the lines of said easements.

In Witness Whereof, We have set our hands this 29 day of March, 1982.

Gary C. Asin, Pres.  
President, Airway Enterprises Incorporated.  
Gary C. Asin.

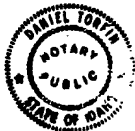
## ACKNOWLEDGEMENT

STATE OF IDAHO ) S.S.  
COUNTY OF ADA )

On this 29 day of March, 1982, before me the undersigned, a notary public in and for said state, personally appeared, Gary C. Asin known to be the President of Airway Enterprises Incorporated, an Idaho Corporation, and that the within and foregoing instrument was signed in my presence in behalf of said corporation by the authority of a resolution of its Board of Directors and that the seal affixed is the seal of said corporation.

My Bond expires November 5, 1985.

Daniel Tortie  
Notary Public for Idaho  
Residing at Boise, Idaho



PLAT APPROVED  
ADA COUNTY ENGINEER  
APPROVED BY Charles E. Wickel  
Notary on Nov. 10, 1982

## CERTIFICATE OF SURVEYOR

I, KEITH A. LOVELESS, do hereby certify that I am a Land Surveyor licensed by the State of Idaho, and that this plat as described in the "Certificate of Owners" was drawn from an actual survey made on the ground under my direct supervision and accurately represents the points plotted thereon, and is in conformity with the State of Idaho code relating to plats and surveys.



IDAHO No. 2831

## APPROVAL OF ADA COUNTY HIGHWAY DISTRICT

The foregoing plat was accepted and approved by the Board of Ada County Highway District Commissioners on the 21 day of October, 1982.

Keith Loveless  
Planning and Engineering

Charles Wickel  
Chairman ACHD

## APPROVAL OF CENTRAL DISTRICT HEALTH DEPARTMENT

Sanitary restrictions of this plat are hereby removed according to the Board to be read on file with the County Recorder or his agent listing the conditions of approval.

Nancy Lee  
ADA COUNTY HEALTH DEPARTMENT  
12/28/80

## APPROVAL OF CITY ENGINEER

I, the undersigned, City Engineer in and for the City of Boise, Ada County, Idaho, hereby approve this plat.

Charles E. Wickel  
City Engineer  
CHARLES E. WICKEL

## APPROVAL OF CITY COUNCIL

I, the undersigned, City Clerk in and for the City of Boise, Ada County, Idaho do hereby certify that at a regular meeting of the City Council held on the 12 day of April, 1982 this plat was duly accepted and approved.

Ann Marie Moseley  
City Clerk Boise, Idaho

## APPROVAL OF COUNTY ENGINEER

I, the undersigned, County Engineer, in and for Ada County, Idaho do hereby certify that I have checked this plat and that it complies with the State of Idaho code relating to plats and surveys.

David M. Collins  
County Engineer  
DAVID M. COLLINS

## CERTIFICATE OF THE COUNTY TREASURER

I, the undersigned, County Treasurer in and for the County of Ada, State of Idaho, per the requirements of LC.50-1308 do hereby certify that any and all current and/or delinquent County property taxes for the property included in this subdivision have been paid in full. This certification is valid for the next thirty (30) days only.

November 10, 1982  
DATE

Marie Jonsson by Ann Paschke, Deputy  
County Treasurer

INSTRUMENT NUMBER 8246726

STATE OF IDAHO ) S.S.  
COUNTY OF ADA )

I hereby certify that this instrument was filed for record at the request of Loveless Engineering at 10 minutes past 4 o'clock P.M. on this 10 day of November, 1982, in Book 51 of Plats at Page 4332 and 4333.

Heather Schroeder 10.00 fee  
Deputy

Dawn Bastida  
Ex-Officio Recorder

8246727

623 2230

DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by Gary Asin doing business as Airway Enterprises, Inc. hereinafter referred to as "Declarant".

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property in Boise City, County of Ada, State of Idaho, which is more particularly described as:

In the County of Ada, State of Idaho:

Lot 4 of VEAZEY PARK ADDITION, according to the official plat thereof, filed in Book 1 of Plats at Page 44, records of Ada County, Idaho.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

623 2231

DEFINITIONS

Section 1. "Association" shall mean and refer to OAKHURST TOWNHOUSES ASSOCIATION, its successors and assigns.

Section 2. "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 Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

In the County of Ada, State of Idaho:

Lot 4 of VEAZEY PARK ADDITION, according to the official plat thereof, filed in Book 1 of Plats at Page 44, records of Ada County, Idaho.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Larry Gillingham doing business as Gillingham Construction Company its successors and assigns if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

## ARTICLE II

### PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment: Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

- (a) The right of the Association to charge reasonable admission and other fees for the use of any recreation facility situated upon the Common Area;
- (b) The right of the Association to suspend the voting right and right of use of the recreational facilities by an owner for any period during which any assessment against his lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;
- (c) The right of the Association to dedicate or transfer all or any part of the Common Area or right or interest therein to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds of each class of members has been recorded.

Section 2. Delegation of Use: Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants or contract purchasers who reside on the property.

Section 3. Easement for Ingress and Egress: Every owner shall have an easement over Lot 53 herein for the specific purpose of ingress and egress to that owners respective unit. This easement shall in no way limit the grant of a general easement for enjoyment to the common areas as specified in Article II, Section I.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any 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.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each lot owned. The Class B membership shall cease and be converted to Class A membership:

when the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership.

#### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1: Creation of the Lien and Personal Obligation of Assessments: The Declarant, for each Lot owned within the property hereby covenants, and each Owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (a) annual assessments or charges, and (b) special assessments for capital improvements or maintenance, such assessments to be established and collected as hereinafter provided. The annual and special assessments together with interest, costs and reasonable attorneys fees, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment together with interest, costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of the property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors title unless expressly assumed by them.

Section 2: Purpose of Assessments: The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of the Common area and of the homes situated upon the properties.

Section 3. Maximum Annual Assessment: Until January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment shall be One Hundred Fifty Three Dollars (\$153.00).

(a) From and after January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment may be increased each year not more than five (5) percent above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment may be increased above five (5) percent only by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements, Easements and Maintenance Provisions: In addition to the annual assessments authorized above, the Association may levy in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any



construction, reconstruction, maintenance, repair or replacement of a capital improvement upon the common areas, including but not limited to fixtures and personal property related thereto, provided that any such assessments shall have the assent of two thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Notwithstanding the above provision, it shall be the responsibility of the owners of each unit to maintain at said owner's expense, the sewer line connecting the said unit to the stub out; the Association has granted an easement to the Bench Sewer District to Lot 53 of the said property hereinbefore described on Page 1 for the express purpose of installation, repair, reconstruction and maintenance of the main sewer line and stub out.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4: Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4, shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership 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 one half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments:

Due Dates: The annual assessment provided for herein shall commence as to all lots on the first day of the month following the conveyance of the common area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessments against each lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified 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 to the date of its issuance.

Section 8. Subordination of the Lien to Mortgages: The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure of any proceeding in lien thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot free from liability for any assessments.

## ARTICLE V

## EXTERIOR MAINTENANCE

In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: Paint, repair, replacement and care of roofs, gutters, downspouts, exterior buildings surfaces, trees, shrubs, grass, walks, swimming pool and recreation area, and other exterior improvements. Such exterior maintenance shall not include glass surfaces.

In the event that the need for maintenance or repair of a lot or the improvements thereon is caused through the willful or negligent acts of its owner, or through the willful or negligent act of the family, guests or invitees of the owner of the lot needing such maintenance or repair, the cost of such exterior maintenance shall be added to and become part of the assessment to which such lot is subject.

## ARTICLE VI.

## ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to the harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee comprised of three (3) or more representatives appointed by the Board.

In the event said Board, or its designated committee, fails to approve or to disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

#### ARTICLE VII.

##### OTHER RESIDENTIAL COVENANTS

Section 1. Easements: Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the rear ten feet of each lot. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels to the easements. The easement area of each lot and all improvements on 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.

Section 2. Nuisances: No noxious or offensive activities shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 3. Temporary Structures: No structure of a temporary nature, trailer, basement, tent, shack, garage, or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently.

Section 4. Signs: No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent, or signs used by the builder to advertise the property during the construction and sales period.

Section 5. Oil and Mining Operations: No oil drilling, oil development operations, oil refining, quarrying, or mining operation of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

Section 6. Livestock and Poultry: No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that one dog or one cat or other household pet may be kept, provided it is not kept, bred, or maintained for any commercial purpose.

Section 7. Residential Use: Each lot shall be used for residential purposes, and no trade or business of any kind may be carried on therein. Lease or rental of a lot for lodging or residential purposes shall not be considered to be a violation of this covenant. However, Declarant shall have the right to display to others for sale purposes, a dwelling unit or units which it owns or if not owned by it, to display to others such unit or units with the owner's consent.

Section 8. Insurance: The owner of any lot shall obtain and keep in full force and effect at all time Homeowners' Insurance coverage provided by companies duly authorized to do business in Idaho, in an amount sufficient as shall provide for full replacement thereof of damage or destruction.

Section 9. Recreation Vehicles: The owner of any lot shall keep all recreational vehicles off the streets, side walks, or driveway. And shall be hidden from the view of any other lot.

#### ARTICLE VIII

##### GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this declaration. Failure of the Association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability: Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment: The covenants and retrictions of this Declaration shall run with and bind the land 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 may be amended during the first twenty (20) year period by an instrument signed by not less than ninety (90%) percent of the lot owners, and thereafter by an instrument signed by not less than seventy five percent (75%) of the lot owners. Any amendment must be recorded.

Section 4. Annexation: Additional residential property and Common Area may be annexed to the properties with the consent of two third (2/3) of each class of members.

Section 5. FHA/VA Approval: As long as there is a Class B membership the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and Amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set his hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 1982.

*Gary C. Asin, Pres.*

STATE OF IDAHO )  
County of Ada ) ss )

On this 10<sup>th</sup> day of November, 1982, before me, a Notary Public in and for the State of Idaho, personally appeared Gary Asin known to me to be the Declarant and acknowledged to me that he executed the foregoing Declaration.

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



Ada County, Idaho, ss  
Request of Loveless Engineering  
TIME 3:13 PM  
DATE 11-10-82  
JOHN BASTIDA  
RECORDER  
By Shannon P. Amott  
Notary Public for Idaho  
Residing at Boise, Idaho

By Heather Schroeder  
Deputy  
26.00

DECLARATION  
OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by Patty Riggs, the President of the Board of Directors of Oakhurst Homeowner's Association, Inc., hereinafter referred to as the "Declarant."

WITNESSETH:

WHEREAS, Declarant is the President of the Oakhurst Homeowner's Association, Inc. representing certain property in Boise City, County of Ada, State of Idaho, which is more particularly described as: In the County of Ada, State of Idaho: Lot 4 of Veazey Park Addition, according to the official plat thereof, filed in Book 1 of Plats at Page 44, records of Ada County, Idaho.

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of, and shall run with, the real property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I

This Declaration of Covenants, Conditions, and Restrictions shall hereby revoke and replace the preceding Declaration of Oakhurst Townhouses Association, LTD.

ARTICLE II  
DEFINITIONS

ASSOCIATION: Shall mean and refer to the Oakhurst Homeowner's Association, Inc., its successors, and assigns.

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 part of the Properties, excluding those having such interest merely as security for the performance of an obligation.

PROPERTIES: Shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

COMMON AREA: Shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Common Area is to be owned by the Association at the time of conveyance of the first Lot.

LOT: Shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

DECLARANT: Shall mean and refer to the President of the Board of Directors of Oakhurst Homeowner's Association, Inc.

ARTICLE III  
PROPERTY RIGHTS

1. OWNERS' EASEMENTS OF ENJOYMENT: Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

a. ) The right of the Association to charge reasonable admission and other fees for the use of any recreation facility situated upon the Common Area.



b. ) The right of the Association to suspend the voting right and right of use of the Common Area and recreational facilities by an Owner, the Tenant of an Owner's Lot, or the guest of an Owner for any period during which any Assessment against the Owner's Lot remains unpaid.

c. ) The right of the Association to suspend the voting right and right of use of the Common Area and recreational facilities by an Owner, the tenant of an Owner's Lot, or the guest of an Owner for a period not to exceed sixty days for any infraction of its published rules and regulations.

d. ) The right of the Association to dedicate or transfer all or any part of the Common Area or right or interest therein to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds of the Members has been recorded.

e. ) The right of the Association to charge reasonable admission and maintenance fees for the use of any recreation facility or Common Area to any person who is not a Member in good standing of the Association, but who may be residing permanently or temporarily within the bounds and jurisdiction of the Association.

2. DELEGATION OF USE: Any Owner may delegate, in accordance with the By-Laws and the Declaration of Covenants, Conditions, and Restrictions, his right of enjoyment to the Common Area and recreational facilities to the members of his family, a tenant residing on the Owner's Lot, or a guest.

3. EASEMENT FOR INGRESS AND EGRESS: Every Owner shall have an easement for the specific purpose of ingress and egress to that Owner's respective unit. This easement shall in no way limit the grant of a general easement for the enjoyment to the Common Areas.

ARTICLE IV  
MEMBERSHIP AND VOTING RIGHTS

1. Every Owner of a Lot which is subject to Assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to Assessment.

2. The Association shall have one Class of Voting Membership who shall all be Owners, and shall have one vote for each Lot Owned. When more than one person holds an interest in any 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

3. Each duly and legally elected Member of the Board of Directors shall also receive one additional vote during the period of time they are serving as a Member of the Board of Directors. Such additional vote granted to any Member of the Board of Directors shall become forfeit immediately when that person is no longer a Member of the Board of Directors.

ARTICLE V  
COVENANT FOR MAINTENANCE ASSESSMENTS

1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS: The Declarant hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association:

a. ) Annual Assessments or charges, and

b. ) Special Assessments for capital improvements or maintenance, such Assessments to be established and collected as hereinafter provided.

The Annual and Special Assessments, together with interest, costs, and reasonable attorneys fees, shall be a charge on the land and may be a continuous lien upon the property against which each Assessment is made. Each such Assessment, together with interest, costs, and reasonable attorneys fees shall also be the personal obligation of the person who was the Owner of the Property at the time with the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to his successors title unless expressly assumed by them.

2. PURPOSE OF ASSESSMENTS: The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area and of the homes and grounds situated upon the Properties.

a. ) The amount of the Annual Assessments levied by the Association shall be determined by a vote of two-thirds of the Members in good standing who are voting in person or by Proxy at a meeting duly called for this purpose.

b. ) The amount of Special Assessments for capital improvements and maintenance levied by the Association shall be determined by a vote of two-thirds of the Members in good standing who are voting in person or by Proxy at a meeting duly called for this purpose. A Special Assessment may be applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, maintenance, repair, or replacement of a capital improvement upon the Common Areas, including but not limited to fixtures and personal property related thereto. A Special Assessment may be levied by the Association for a period less than one year, but may not exceed one year.

Notwithstanding the above provisions, it shall be the responsibility of the Owner of each unit to maintain at said Owner's expense, the sewer line connecting the said unit to the stub out; the Association has granted an easement to the Bench Sewer District to Lot 53 of the said property hereinbefore described on Page 1 for the express purpose of installation, repair, reconstruction, and maintenance of the main sewer line and stub out.

3. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTION 2: Written notice of any meeting called for the purpose of taking any action authorized under Section 2 shall be sent by mail or hand delivered to all Members not less than 15 days, nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of Members or of Proxies entitled to cast two-thirds of all votes 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 one-half of the required Quorum at the preceding meeting.

4. UNIFORM RATE OF ASSESSMENT: The Annual Assessment and Special Assessments must be fixed at a uniform rate for all Lots within the jurisdiction of the Association, and all Lots shall receive the same benefits and services from the Assessments. A Special Assessment may be levied upon a specific Lot if the Owner of that Lot requests and receives a benefit or service pertaining to that Lot only, which is not provided to all Owners and all Lots.

5. LIENS: No sale or transfer of any Lot shall relieve such Lot free from liability for any Assessments or Liens.

6. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS: The Annual Assessment provided for herein shall commence as to all Lots on the first day of the month following the conveyance of a Lot to an Owner. The Annual Assessment shall be adjusted according to the number of months remaining in the Assessment Year. The Board of Directors shall fix the amount of the Annual Assessments against each Lot at least fifteen days in advance of each Annual Assessment period. Written notice of the Annual Assessment shall be sent by mail or hand delivered to every Owner subject thereto at least fifteen days in advance of a meeting as called for and authorized in Section 2.

**ARTICLE VI**  
**EXTERIOR MAINTENANCE**

In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to Assessment hereunder as follows: paint, repair, and replacement of exterior building surfaces and roofs, trees, shrubs, grass, sidewalks, swimming pool, gazebo, and other exterior improvements as determined by the Board of Directors.

In the event that the need for repair or maintenance upon a Lot or the improvements thereon is caused through the willful or negligent acts of its Owner, or the Owner's family, or guest, or other invitees of the Owner, the cost of such exterior maintenance shall be added to and become part of the Assessment to which such Lot is subject.

**ARTICLE VII**  
**ARCHITECTURAL CONTROL**

No building, fence, wall, or other structure shall be erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to the harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association.

**ARTICLE VIII**  
**OTHER RESIDENTIAL COVENANTS**

1. **EASEMENTS:** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded Plat and over the rear ten feet of each Lot. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels to the easements. The easement area of each Lot and all improvements on 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.
2. **NUISANCES:** No noxious or offensive activities shall be carried out upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No noxious or offensive activities shall be carried out upon any portion of the Common Area or recreation area or facilities which may be or may become an annoyance to the neighborhood.
3. **TEMPORARY STRUCTURE:** No structure of a temporary nature, trailer, basement, tent, shack, garage, or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently.
4. **SIGNS:** No sign of any kind shall be displayed to the public view on any Lot except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale, or signs used by the seller to advertise the property during the sales period.
5. **PETS:** No livestock or poultry of any kind shall be raised, bred, or kept on any Lot, except household pets, provided they are not kept, bred, or maintained for any commercial purpose. All household pets must be cared for and maintained in accordance with State and Local laws. No dogs shall be allowed on the Common Area.
6. **RESIDENTIAL USE:** Each Lot shall be used for residential purposes, and no trade or business of any kind may be carried on therein. Lease or rental of a Lot for lodging or residential purposes shall not be considered to be a violation of this covenant.

7. INSURANCE: The Owner of any Lot shall obtain and keep in full force and effect at all times personal homeowner's insurance coverage provided by any company duly authorized to do business in the State of Idaho, in an amount sufficient as shall provide for full replacement thereof of damage or destruction.

8. RECREATION VEHICLES: All recreational vehicles shall be kept off the streets, sidewalks, or driveways of any Lot.

ARTICLE IX  
GENERAL PROVISIONS

1. ENFORCEMENT: The Association, or any Owner, shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure of the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

2. SEVERABILITY: Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

3. AMENDMENT: The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty years from the date of this Declaration recording, after which time they shall be automatically extended for successive periods of ten years. This Declaration may be amended during the first twenty years by an instrument signed by not less than two thirds of the Owners, and thereafter by an instrument signed by not less than two-thirds of the Owners. Any amendments must be recorded.

4. ANNEXATION: Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds of those Members in good standing entitled to vote.

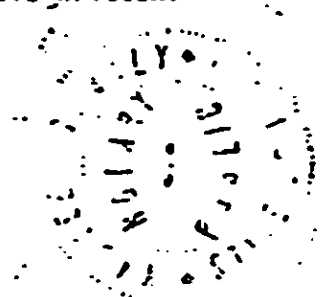
IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set his hand and seal this 26th day of June, 1985.

\_\_\_\_\_  
President, Board of Directors

State of Idaho     )  
                          ) ss  
County of Ada     )

On this 26th day of June, 1985, before me, a Notary Public in and for the State of Idaho, personally appeared Patty Riggs, known to me to be the Declarant and acknowledged to me that she executed the foregoing Declaration.

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



\_\_\_\_\_  
Notary Public for Idaho  
Residing at Boise, Idaho

My Commission Expires March 25 1986

BY-LAWS OF THE  
OAKHURST HOMEOWNER'S ASSOCIATION, INC.

SG30000184

ARTICLE I

These By-Laws of the Oakhurst Homeowner's Association, Inc. shall hereby revoke and replace the preceding By-Laws of the Oakhurst Townhouses Association, LTD.

ARTICLE II  
NAME AND LOCATION

The name of the corporation is OAKHURST HOMEOWNER'S ASSOCIATION, INC., hereinafter referred to as the "Association." The principal office of the corporation shall be located at the residence of the duly and legally elected President of the Board of Directors of the Association, who shall reside within the confines of the Oakhurst complex. Meetings of the Members and Directors may be held at such places within the State of Idaho as may be designated by the Board of Directors.

ARTICLE III  
DEFINITIONS

1. ASSOCIATION: Shall mean and refer to the Oakhurst Homeowner's Association, Inc.
2. PROPERTIES: Shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions, and Restrictions, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.
3. COMMON AREA: Shall mean all real property owned by the Association for the common use and enjoyment of the Owners.
4. OWNER: Shall mean and refer to the record Owner, whether one or more persons, of the fee simple title to any Lot which is part of the Properties, excluding those having such interest merely as security for the performance of an obligation.
5. LOT: Shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.
6. DECLARATION: Shall mean and refer to the Declaration of Covenants, Conditions, and Restrictions applicable to the Properties recorded in the office of the Ada County Recorder, Ada County, Idaho.
7. MEMBER: Shall mean and refer to those persons entitled to membership as provided in the Declaration.

ARTICLE IV  
MEETINGS

1. ANNUAL MEETING: The regular Annual Meeting of the Members shall be held on the third Monday of May each year at a time and place fixed by the Board of Directors.
2. SPECIAL MEETINGS: Special Meetings of the Members may be called at any time by the Board of Directors, or upon written request of one-fourth of the Members in good standing who are entitled to vote provided such Members submit such written request to any Member of the Board of Directors not less than twenty days in advance of the meeting date.

3. **NOTICE OF MEETINGS:** Written notice of the Annual Meeting or of Special Meetings shall be given by or at the direction of the Secretary, by hand delivering such notice or by mailing such notice to the Members of the Association. Such notice shall specify the place, day, and hour of the meeting, and the purpose of the meeting. Such notice of the Annual Meeting or of Special Meetings shall be delivered either by hand or by mail to all Members not less than fifteen days in advance of such meeting, and not more than 60 days in advance of such meeting. Notices which are mailed shall be sent to the address appearing on the Books of the Association, and it shall be the Owner's responsibility to ensure correct information is supplied to the Secretary of the Board of Directors.

4. **PROXIES:** At all Meetings of Members, each Member in good standing may vote in person or by Proxy. All Proxies must be in writing and be recorded with the Secretary at the start of the meeting. All Proxies must be given to a Member in good standing, and that Member shall vote as directed in the Proxy. Any Proxy given by a Member of the Board of Directors which represents the additional vote granted to a Member for serving on the Board of Directors, must be given to another Member of the Board of Directors, and that Member of the Board shall vote as directed in the Proxy.

5. **QUORUM:** The presence at the Meeting of Members in good standing entitled to cast votes, or of Proxies entitled to cast votes, must be at least two-thirds of the Membership of the Association in order to constitute a Quorum for any action, except as otherwise provided in the Articles of Incorporation, the Declaration, or by these By-Laws. If the required Quorum is not present, another meeting may be called subject to the same notice requirements, and the required Quorum at the subsequent meeting shall be one-half of the required Quorum at the preceding meeting. If, however, such Quorum shall not be present or represented at the subsequent meeting, the Members present shall have the power to adjourn the meeting until such time as a Quorum as aforesaid shall be present or represented.

#### ARTICLE V

#### BOARD OF DIRECTORS: SELECTION, TERM OF OFFICE, AND DUTIES

1. **NUMBER.** The affairs of this Association shall be managed by a Board of five Directors, who must be Members in good standing of the Association.

2. **TERM OF OFFICE:** At the first meeting of the Association called for that purpose, the Members shall elect five Directors to serve until the next following Annual Meeting. At each Annual Meeting thereafter, the Members of the Association shall elect Directors for the forthcoming year. Members shall elect five Directors for a term of one year at each Annual Meeting thereafter.

3. **DIRECTORSHIPS:** The five Directors shall consist of a President, a Vice President, a Treasurer, a Secretary, and a Special Director.

#### 4. **INDIVIDUAL DIRECTOR BASIC DUTIES:**

a. ) The President shall preside at all Meetings of the Board of Directors and at all Meetings of the Association; shall see that orders and resolutions of the Board are carried out; shall see that the orders and resolutions of the Association are carried out; shall co-sign on all checks or savings or other Association banking accounts; and shall sign all written legal instruments having to do with the Association.

b. ) The Vice President shall act in place and in stead of the President to include all of the duties and powers noted in these By-Laws as the Basic Duties of the President in the President's absence, inability, or refusal to act; and shall discharge such other duties as may be required by the Board.

- c. ) The Treasurer shall receive and deposit in the Association bank accounts all monies of the Association, and shall disburse such funds as directed by resolution of the Board of Directors; shall prepare receipts for monies received as directed by the Board of Directors; shall sign all checks or savings or other Association banking accounts; shall keep proper books of account; shall make all books of account available for review upon request of any Member in good standing; and shall prepare an annual budget and statement of income and expenses to be presented to the Membership at its regular Annual Meeting; and the Treasurer and Secretary shall prepare all tax or other legal filings as required by law.
- d. ) The Secretary shall record the votes and keep the minutes of all meetings of the Board of Directors and of the Association; shall keep the corporate seal of the Association and affix it on all papers requiring the seal; shall serve notice of meetings of the Board and of the Association in accordance with the rules of the Declaration and these By-Laws; shall keep appropriate records showing names, addresses, and telephone numbers of all Members of the Association; shall perform such other duties as required by the Board; and the Secretary and Treasurer shall prepare all tax or other legal filings as required by law.
- e. ) The Special Director shall maintain close liaison between the Board of Directors and the Members of the Association; shall bring before the Board any such matters as requested by any Member in good standing of the Association; and shall perform such other duties as required by the Board of Directors.
5. RESIDENCE: All Members of the Board of Directors must reside within the confines of the Oakhurst complex, and must maintain such residence as their principal and regular place of living. If a Member of the Board of Directors does not maintain his principal place of residence within Oakhurst Townhouse complex, the Director shall automatically forfeit and be removed from office, his successor shall be selected by the remaining Members of the Board, and the successor shall serve for the unexpired term of office.
6. REMOVAL: Any Director may be removed from the Board, with or without cause, by a majority vote of the Members in good standing of the Association. Any Member of the Board of Directors who fails to attend three consecutive Regular Meetings of the Board of Directors shall be removed from office, effective at the time the third consecutive absence is recorded. In the event of death, resignation, or removal of a Director, his successor shall be elected by the remaining Members of the Board of Directors, and the successor shall serve for the unexpired term of his predecessor.
7. COMPENSATION: No Director shall receive compensation for any service rendered to the Association. However, any Director may be reimbursed for actual expenses incurred in the performance of required duties of the office.
8. NOMINATION: Nomination for the election to the Board of Directors shall be made from the floor at a Meeting of the Association first called for that purpose, and at each Annual Meeting thereafter. The nominations may be made by any Association Member in good standing.
9. ELECTIONS: Election to the Board shall be either by show of hands or by secret written ballot, as determined at the Association Meeting by the Members in good standing of the Association. At such elections, the Members or their Proxies may cast, in respect to each vacancy, votes as they are entitled to exercise under the provisions of the Articles of Incorporation, the Declaration, and these By-Laws. The additional vote granted to each Member of the Board of Directors shall be valid until the adjournment of the Annual Meeting called for the purpose of electing new Members to the Board, at which time the additional vote granted for serving on the Board shall pass, one additional vote each, to each newly elected Member of the Board of Directors. Any Member elected to the Board of Directors must be a Member in good standing of the Association. The person receiving the largest number of votes for the respective office shall be elected.

In the case of a tie vote, there shall be secret written ballot voting or show of hands voting, as prescribed above, until one person receives the largest number of votes for the respective office.

10. **HOLDING A DIRECTORSHIP:** No Director may hold more than one office on the Board of Directors. There shall be five separate persons holding the five Directorships.

**ARTICLE VI**  
**MEETINGS OF DIRECTORS**

1. **REGULAR MEETINGS:** The Regular Meetings of the Board of Directors shall be held monthly at such date, place, and hour as may be fixed from time to time by resolution of the Board.

2. **SPECIAL MEETINGS:** Special Meetings of the Board of Directors shall be held when called by any Board Member. Such notice may be delivered to Board Members in person, by telephone, or by mail, as necessary.

3. **QUORUM:** A majority of the number of Directors shall constitute a Quorum for the transaction of business. Every act of decision done or made by a majority of the Directors present at a duly held meeting at which a Quorum is present shall be regarded as an act of the Board.

**ARTICLE VII**  
**POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

1. **POWERS:** The Board of Directors shall have the power to:

- a. ) Adopt and publish rules and regulations governing the use of the Common Area and facilities and the personal conduct of the Members, their tenants, and their guests thereon, and to establish penalties for the infraction thereof.
- b. ) Suspend the voting rights and right to use the recreational facilities of any Member during any period in which such Member shall be in default in the payment of any Assessment levied by the Association. Such rights may also be suspended after notice and hearing for a period not to exceed sixty days for infraction of published rules and regulations. Any Member of the Association whose voting rights have been suspended by the Board, or whose rights may have been suspended by the Board for infraction of published rules and regulations, shall not be considered as a Member in good standing of the Association, and shall forfeit all rights as established by these By-Laws, the Declaration, or the Articles of Incorporation.
- c. ) Elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may determine.
- d. ) Exercise for the Association all powers, duties, and authority vested in or delegated to this Association and not reserved to the Membership by other provisions of these By-Laws, Articles of Incorporation, or the Declaration.
- e. ) Declare the office of a Member of the Board of Directors to be vacant in the event such Member shall be absent from three consecutive Regular Meetings of the Board of Directors, or in the event such Member shall be deceased, resign from the Board, or shall have been removed from office by the Members of the Association.
- f. ) Employ an independent contractor or other such person as they deem necessary, and to prescribe their duties.
- g. ) Appoint an Architectural Control Committee, as provided in the Declaration, and shall appoint any other committees as deemed appropriate in carrying out its purpose.



2. DUTIES: It shall be the duty of the Board of Directors to:
- a. ) Cause to be kept a complete record of all its acts and all Association acts and corporate affairs, and to present a statement thereof to the Members at the Annual Meeting of the Members, or at any Special Meeting when such statement is requested by any Member of the Association in good standing.
  - b. ) Supervise all officers, agents, and employees of this Association, and to see that their duties are properly performed.
  - c. ) To determine the amount of the Annual Assessment to be levied against each Lot at least fifteen days prior to the Annual Assessment period and Association Meeting called for that purpose as provided for in the Declaration.
  - d. ) Deliver written notice of each Assessment to every Owner as determined by a Meeting of the Association prescribed in the Declaration.
  - e. ) Foreclose the lien against any property for which Assessments are not paid within thirty days after the due date, or to bring an action at law against the Owner personally obligated to pay the same.
  - f. ) To perform duties as fully provided for in the Declaration with regard to Annual Assessments and Special Assessments.
  - g. ) Issue, or cause an appropriate officer to issue, upon demand by any Member, a statement setting forth whether or not any Assessment has been paid.
  - h. ) Procure and maintain adequate liability and hazard insurance on property owned by the Association.
  - i. ) Cause all officers or employees having fiscal responsibilities to be bonded, as deemed appropriate.
  - j. ) Cause the Common Area and facilities to be maintained.
  - k. ) Cause the grounds and the buildings and streets to be maintained.

**ARTICLE VIII**  
**BOOKS AND RECORDS**

The books and records and papers of the Association shall at all times, during reasonable hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation, and the By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, and copies will be made available at the cost of reproduction.

**ARTICLE IX**  
**ASSESSMENTS**

As more fully provided in the Declaration, each Member is obligated to pay to the Association Annual and Special Assessments, which may be secured by a continuing lien upon the property against which the Assessment is made. Any Assessments which are not paid when due shall be delinquent. If the Assessment is not paid within thirty days after the due date, the Assessment shall bear interest from the date of the delinquency at the rate of interest to be fixed annually by the Board of Directors, and the Board may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property and interest, costs, and reasonable attorney fees of any such action shall be added to the amount of such Assessment. No Owner may waiver or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

ARTICLE X  
CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: OAKHURST HOMEOWNER'S ASSOCIATION, INC. The Corporate Seal shall be kept by the Secretary elected to the Board of Directors by the Members in good standing of the Association.

ARTICLE XI  
AMENDMENTS

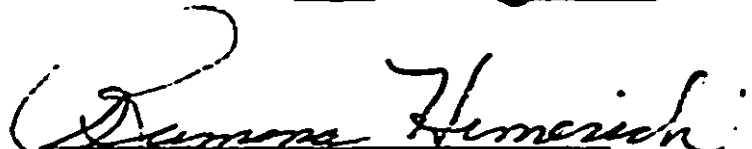
1. These By-Laws may be amended, at regular or Special Meetings of the Members of the Association in good standing, by a majority vote of the Members in good standing who are entitled to vote, in person or by Proxy.
2. In the case of any conflict between the Articles of Incorporation and these By-Laws the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.


ARTICLE XII  
FISCAL YEAR

The Fiscal Year of the Association shall begin on the First Day of Incorporation and shall end on the day preceding the calendar month and day of Incorporation.

IN WITNESS WHERE, we, being all of the Directors of the Board for the Oakhurst Homeowner's Association, Inc. have hereunto set our hands this 26 day of June 1985.

  
\_\_\_\_\_  
President, Board of Directors

  
\_\_\_\_\_  
Vice President, Board of Directors

  
\_\_\_\_\_  
Treasurer, Board of Directors

  
\_\_\_\_\_  
Secretary, Board of Directors

  
\_\_\_\_\_  
Special Director, Board of Directors



AFFILIATE OF  
MCDRE FINANCIAL GROUP

8630000190

# CORPORATION ACKNOWLEDGEMENT

STATE OF IDAHO

COUNTY OF Ada } ss.

On this 26<sup>th</sup> day of March in the year 1986 before me \_\_\_\_\_

Maureen J. DeLo

\_\_\_\_\_ a notary public in and for said State of

Idaho, personally appeared Patty King, Frank Adams, Rosemary King and the Person

known or identified to me (or proved to me on the oath of \_\_\_\_\_), to

be the President, Director, Vice President and Secretary of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

Maureen J. DeLo

Notary Public for Idaho

Residing at: Idaho

My commission expires May 25 1990

RE01092



AFFILIATE OF  
MCDRE FINANCIAL GROUP

# CORPORATION ACKNOWLEDGEMENT

STATE OF IDAHO

COUNTY OF Ada } ss.

On this 26<sup>th</sup> day of March in the year 1986 before me \_\_\_\_\_

Maureen J. DeLo

\_\_\_\_\_ a notary public in and for said State of

Idaho, personally appeared Maureen J. DeLo

known or identified to me (or proved to me on the oath of \_\_\_\_\_), to

be the Treasurer of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

Maureen J. DeLo

Notary Public for Idaho

Residing at: Idaho

My commission expires May 25 89

RE01092

# State of Idaho

## Department of State

### CERTIFICATE OF INCORPORATION OF

OAKHURST HOMEOWNER'S ASSOCIATION, INC.

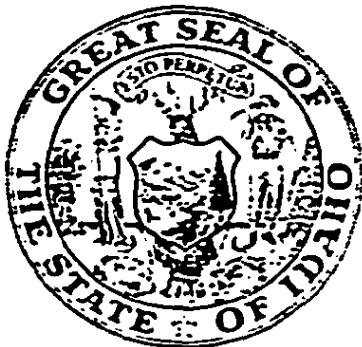
I, PETE T. CENARRUSA, Secretary of State of the State of Idaho, hereby certify that duplicate originals of Articles of Incorporation for the incorporation of \_\_\_\_\_

OAKHURST HOMEOWNER'S ASSOCIATION, INC.

duly signed pursuant to the provisions of the Idaho Nonprofit Corporation Act, have been received in this office and are found to conform to law.

ACCORDINGLY and by virtue of the authority vested in me by law, I issue this Certificate of Incorporation and attach hereto a duplicate original of the Articles of Incorporation.

Dated \_\_\_\_\_ July 19 \_\_\_\_\_, 19 85.



*Pete T. Cenarrusa*

SECRETARY OF STATE

*Wm. J. Clark*

Corporation Clerk

ARTICLES OF INCORPORATION  
OF  
OAKHURST HOMEOWNER'S ASSOCIATION, INC.

85 .III. 15 PM 4 50

In compliance with the requirements of Idaho Code Title 30 - Chapter 3, the undersigned, all of whom are residents of Idaho and all of whom are of full age, have this day voluntarily associated themselves together for the purpose of forming a corporation not for profit and do hereby certify:

ARTICLE I

This Article of Incorporation shall hereby revoke and replace the preceding Articles of Incorporation of Oakhurst Townhouses Association, LTD.

ARTICLE II

The Name of this corporation shall be OAKHURST HOMEOWNER'S ASSOCIATION, INC., hereinafter called the "Association."

ARTICLE III

The principal office of the Association is located at 2571 Waterbury Lane, Boise, Idaho 83706. Patty Riggs, whose address is 2571 Waterbury Lane, Boise, Idaho 83706, and who is the duly and legally elected President of this Association is hereby appointed the initial registered agent of this Association.

ARTICLE IV

PURPOSE AND POWERS OF THE ASSOCIATION

This Association shall not exist for nor contemplate gain or profit to the Members thereof, and the specific purposes for which it is formed are to provide for maintenance, preservation, and architectural control of the residents' Lots, and Common Area within that certain tract of property described as: In the County of Ada, State of Idaho: Lot 4 of Veazy Park Addition, according to the official plat thereof, filed in the records of Ada County, Idaho. This Association is also formed for the purpose of promoting the health, safety, and welfare of the residents within the above described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association for this purpose to:

- a. ) Exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions, and Restrictions hereinafter called the "Declaration" applicable to the property and recorded or to be recorded in the office of the Ada County Recorder, Ada County, Idaho, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length;
- b. ) Exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain document titled By-Laws of the Oakhurst Homeowner's Association, Inc. hereinafter called the "By-Laws" applicable to the property and recorded or to be recorded in the office of the Ada County Recorder, Ada County, Idaho, and as the same may be amended from time to time as therein provided, said By-Laws being incorporated herein as if set forth at length;
- c. ) Fix, levy, collect, and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration and By-Laws; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes, or government charges levied or imposed against the property of the Association;
- d. ) Acquire (by gift, purchase, or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;
- e. ) Dedicate, sell, or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument has been signed by two-thirds of the Members, agreeing to such dedication, sale, or transfer;

f. ) Participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex additional residential property and Common Area, provided that any such merger, consolidation, or annexation shall have the assent of two-thirds of the Members;

g. ) Have and to exercise any and all powers, rights, and privileges which a corporation organized under the Non-Profit Corporation Law of the State of Idaho by law may now or hereafter have or exercise.

#### ARTICLE V

Every person or entity who is a record Owner of a fee or undivided fee interest in any Lot which is subject to Covenants of record to assessment by the Association, including contract sellers, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from Ownership of any Lot which is subject to assessment by the Association.

#### ARTICLE VI

The Association shall have one Class of Voting Membership who shall all be Owners, and shall have one vote for each Lot owned. When more than one person holds an interest in any 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. Each duly and legally elected Member of the Board of Directors shall also receive one additional vote during the period of time they are serving as a Member of the Board of Directors. Such additional vote granted to any Member of the Board of Directors shall become forfeit immediately when that person is no longer a Member of the Board of Directors.

ARTICLES OF INCORPORATION  
OAKHURST HOMEOWNER'S ASSOCIATION, INC.

ARTICLE VII

The affairs of this Association shall be managed by a Board of five Directors, who will be Members of the Association. The number of Directors may be changed by amendment of the By-Laws of the Association. The names and addresses of the persons who are to act in the capacity of Directors until selection of their successors and incorporators are:

1. Patty Riggs 2571 Waterbury Lane Boise, ID 83706
2. Ramona Himerich 2530 Gekeler Lane Boise, ID 83706
3. Maureen G M Daly 2565 Waterbury Lane Boise, ID 83706
4. Ida Larson 2572 Waterbury Lane Boise, ID 83706
5. Clark Skeans 2553 Waterbury Lane Boise, ID 83706

At each Annual Meeting the Members shall elect five Directors to serve a term of one year.

ARTICLE VIII

DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by not less than two-thirds of the Members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed, and assigned to any nonprofit corporation, association, trust, or other organization to be devoted to such similar purposes.

ARTICLE IX

DURATION

This corporation shall exist perpetually.

ARTICLE X

AMENDMENTS

Amendment of these Articles shall require the assent of two-thirds of the Membership.



ARTICLES OF INCORPORATION

• OAKHURST HOMEOWNER'S-ASSOCIATION, INC.

8630000496

IN WITNESS WHEREOF, for the purposes of forming this corporation under the laws of the State of Idaho, we the undersigned constituting the incorporators of this Association, have executed these Articles of Incorporation, this 1st day of July, 1985.

Patty Riggs  
President, Board of Directors

Ramona Himerich  
Vice President, Board of Directors

Maurice M. Daly  
Treasurer, Board of Directors

Ida Larson  
Secretary, Board of Directors

Clark S. Skea  
Special Director, Board of Directors

STATE OF IDAHO )  
                          )ss  
County of Ada    )

On this 1st day of July, 1985, before me the undersigned, a Notary Public in and for said State personally appeared Patty Riggs, Ramona Himerich, Ida Larson, Clark Skea, and \_\_\_\_\_, known to me to be the persons whose names are subscribed to the foregoing Articles of Incorporation and acknowledged to me that they have executed the same.

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

Maurice M. Daly  
Notary Public for Idaho  
Residing at Boise, Idaho

8805965

FIRST AMENDED AND RESTATED DECLARATION  
OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
OAKHURST TOWNHOUSES SUBDIVISION

THIS FIRST AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration"), dated this 5th day of January, 1988, is made by AMERICAN SAVINGS AND LOAN ASSOCIATION, a California corporation, (the "Declarant"), and the undersigned owners of individual units with reference to the following recitals:

## RECITALS

WHEREAS, Declarant and the undersigned owners own in excess of ninety percent (90%) of all of the Lots constituting Oakhurst Townhouses Subdivision, a subdivision, as constituted by and described in the official Plat of record filed in Book 51 of Plats, at pages 4332 and 4333, records of Ada County, as amended and replatted in part by Oakhurst Townhouses No. 2, according to the official Plat of record filed in Book 51 of Plats, at page 4348, records of Ada County (Oakhurst Townhouses Subdivision and Oakhurst Townhouses No. 2, and each and every Lot, parcel and tract thereof being hereinafter referred to as the "Property"); and

WHEREAS, said Property has been subject to covenants, conditions and restrictions recorded November 10, 1982, as Instrument No. 8246727, records of Ada County, Idaho, and may have been affected or may be subject to further "Declaration of Covenants, Conditions and Restrictions" recorded March 28, 1986, as Instrument No. 8615650, records of Ada County, Idaho (hereinafter, the "Restrictions"); and

WHEREAS, Declarant and the undersigned Owners desire to clarify and amend all prior covenants, conditions and restrictions affecting the Property, and to amend the Restrictions, and to repeal the same and wholly substitute the within covenants, conditions and restrictions therefor;

NOW, THEREFORE, Declarant and the undersigned Owners hereby declare that all of the said Property is and shall be held and conveyed subject to the easements, conditions, covenants, restrictions and reservations hereinafter set forth, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said Property. Said easements, covenants, restrictions, conditions and reservations shall constitute covenants to run with the land and shall be binding upon all persons claiming under them, and these conditions, covenants, restrictions, easements and reservations shall inure to the benefit of and be limitations upon all future owners of said Property or any interest therein, and shall

constitute the only covenants, conditions and restrictions affecting the Property.

## ARTICLE I

### DEFINITIONS

Whenever used in this Declaration, the following terms shall have the following meanings:

1. "Association" shall mean The Oakhurst Townhouses Association, Inc., a nonprofit corporation organized under the laws of the State of Idaho, its successors and assigns.

2. "Said Property" or the "Property" or the "Project" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

3. "Common Area" shall mean all real property, and appurtenances thereto, now or hereafter owned by the Association for the common use and enjoyment of the Members of the Association. The Common Area to be owned by the Association upon its incorporation is described as follows:

Lots 2, 3, 4, 5 and 6 of Oakhurst Townhouses,  
and Lot 3 of Oakhurst Townhouse No. 2  
(according to the official plats thereof).

4. "Limited Common Area" means that portion of the Common Area designated herein for the exclusive use by Owners of particular lots as those terms are herein defined and as set forth in Article IV, Section 3.

5. "Lot" shall mean and refer to every legal subdivision lot of Oakhurst Townhouses and Oakhurst Townhouses No. 2 (according to the official plat thereof) with the exception of the Common Area.

6. "Member" shall mean and refer to every person or entity who holds Membership in the Association.

7. "Owner" shall mean and refer to the record owner of a fee simple title to any such Lot (including contract sellers), whether one or more persons or entities, excluding those having such interest merely as security for the performance of any obligation.

8. "Building Site" shall mean and refer to a Lot, exclusive of setbacks and utility easements.

9. "Setback" means the minimum distance between the dwelling unit or other structure referred to and a given street or road or lot line, all of which shall be in accordance with the applicable zoning regulations of the City of Boise, Idaho.

10. "Mortgage" shall mean and refer to any mortgage or deed of trust, and "Mortgagee" shall refer to the mortgage or beneficiary under a deed of trust, and "Mortgagor" shall refer to the mortgagor or grantor of a deed of trust.

## ARTICLE II

### MEMBERSHIP

1. Every person or entity who is a record Owner (including contract sellers) of a fee or undivided fee interest in any Lot shall, by virtue of such Ownership, be a Member of the Association. When more than one person holds such interest in any such Lot, all such persons shall be Members. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any such Lot subject to assessment by the Association. Such ownership shall be the sole qualification for Membership and shall automatically commence upon a person becoming such owner, and shall automatically terminate and lapse when such ownership in Said Property shall terminate or be transferred. The Association shall maintain a Membership list and may require written proof of any Member's lot ownership interest.

2. The financial reports, books and records of the Association may be examined, at reasonable times, by any Member or mortgagee, as determined by the Board of Directors of the Association.

## ARTICLE III

### VOTING RIGHTS

The Association shall have a single class of voting Membership, consisting of all Members of the Association, and each shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any 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.

## ARTICLE IV

## PROPERTY RIGHTS

1. Common Property Ownership. Subject to the rights of individual owners regarding Limited Common Area, the Common Area shall be owned by the Association.

2. Members' Easements of Enjoyment to Common Area. Every Member of the Association shall have a right and easement of enjoyment in and to the Common Areas, and such easement shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the following provisions:

(a) The right of the Association to limit the number of Members permitted to use a particular part of the Common Areas at any one time;

(b) The right of the Association to suspend any Member's voting rights and/or right to use any of the recreational facilities owned by the Association, for any period during which any assessment against said Member's property remains unpaid, and for a period not to exceed thirty (30) days for each infraction of its published rules and regulations.

(c) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such condition or transfer shall be effective unless an instrument signed by Members entitled to cast two-thirds of the votes of the Membership has been recorded in the appropriate county deed records, agreeing to such dedication or transfer, and unless written notice of proposed actions sent to every Member not less than thirty (30) days nor more than ninety (90) days prior to such dedication or transfer; and

(d) The right of the Directors of the Association to promulgate reasonable rules and regulations governing such rights of use, from time to time, in the interest of securing maximum safe usage of such Common Areas by the Members of the Association without unduly infringing upon the privacy or enjoyment of the Owner or occupant of any part of Said Property, including without being limited thereto, rules restricting persons under or over designated ages from using certain portions of Said Property during certain times, and reasonable regulations and restrictions regarding parking.

3. Limited Common Area. There are hereby created Limited Common Areas which are reserved for the exclusive use of the Owners of Lots to which they relate and are assigned, and in

connection therewith there is hereby granted and reserved for the use and benefit of the Owners of the Lots to which said Limited Common Areas related an exclusive easement for the use and benefit of said Limited Common Areas. The Limited Common Areas are located on and are described as the front yard and driveway portion of each Lot.

4. Delegation of Use. Any Member may delegate, in accordance with the Rules and Regulations adopted from time to time by the Directors, his right or enjoyment to the Common Areas and facilities to the Members of his family, his tenants, of contract purchasers, providing they reside on the Property.

5. Reciprocal Easement. Each and every Owner purchasing a lot within the subdivision is purchasing it with the full understanding that each lot is subject to certain reciprocal easements which are appurtenant thereto. Each Owner by purchase of a lot within the subdivision agrees that there shall be subject to the following reciprocal easements:

(a) An easement for drainage is hereby declared to exist on each lot for the benefit of the adjoining lot(s); provided, that the Owner installing any drainage pipe, conduit, or other facility shall pay for any and all such improvements and cause the Property upon which the improvements are located to be restored to their original state at the sole cost of the Owner employing the use of this reciprocal easement.

(b) Each lot shall be subject to the minimum building Setback requirements as applicable to the Said Property under the ordinances of the City of Boise, Idaho.

(c) All lots within the subject Property including, but not limited to the lots in the Common Area, shall be subject to a general utility and sanitary sewer easement, which shall include, but not be limited to, access for ingress and egress for maintenance or repair by the utility provider.

(d) All Lots shall be subject to a permanent public utility, irrigation, drainage and access easement which shall be for ingress and egress for installation, maintenance and repair for any public utility, irrigation district, drainage district, or any other utility providing utilities and/or having an easement in, to and through the said subdivision, except within the area of foundation for residences.

## ARTICLE V

## MAINTENANCE ASSESSMENT AND MORTGAGEE RIGHTS

1. Creation of the Lien and Personal Obligation of Assessments. The Declarant and the Association hereby covenant for all of Said Property; and each owner of any Lot by acceptance of a deed or contract of purchase therefor, whether or not it shall be so expressed in any such deed or other conveyance or agreement for conveyance, is deemed to covenant and agree to pay to the Association: (1) regular annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The regular and special assessments, together with such interest thereon and cost of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Property against which such assessment is made. Each such assessment, together with such interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the owner of such Property at the time such assessment was levied. The obligation shall remain a lien on the Property until paid or foreclosed, but shall not be a personal obligation of successors in title unless expressly assumed by them.

2. Purpose of Assessments. The assessments levied by the Association shall not be used for any purpose other than promoting the economic interest, recreation, health, safety and welfare of the residents in Said Property and in particular for the improvement and maintenance of Said Property, any Common Area or Limited Common Area, all improvements constructed thereon, fencing along the exterior and within the interior of the Project, the services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area or Limited Common Area, and including without being limited thereto, the payment of taxes (on Common Area only), and the provision of insurance on all or any part of Said Property, including insurance on individual lots and improvements, including fire and general casualty, liability and directors and officers insurance, and for exterior maintenance of all structures built on the Lots. The Association shall also establish and maintain a reserve account as provided in Section 12 of this Article, and any Assessment may include a sum for such reserve. Subject to the above provision the Association shall determine the use of assessment proceeds.

3. Initial Annual Assessment; Subsequent Limitations. The initial annual assessment shall be established by the Board of Directors of the Association, based upon the budget of the Association adopted by the Board. The initial Budget shall be for the calendar year 1988.

(a) From and after January 1, 1989, the annual assessment may be increased each year by not more than twenty percent (20%) above the annual assessment for the previous year without a vote of the Membership, at a meeting called for such purpose.

(b) The Board of Directors may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal Property related thereto, or for extraordinary expenses incurred by the Association, provided that in the event special assessments exceed in the aggregate five percent (5%) of the budgeted gross expenses of the Association for that fiscal year, the vote or written consent of a majority of the voting power of the Association residing in Members shall be required to approve such assessments at a meeting called for such purpose. Special assessments shall be levied on the same basis as regular assessments.

4. Uniform Rate of Assessment. Both regular assessments and any special assessments must be fixed at a uniform rate for all Lots, and may be collected on an annual, quarterly, or monthly basis in the discretion of the Board of Directors of the Association; except, that assessments may be levied applicable to some Lots only, with prior consent by the Owners of such Lots, if such procedure is considered equitable in the discretion of the Board in order to construct facilities to be available only to the Members desiring to pay for the cost thereof. In establishing that all assessments shall be equal, it is acknowledged that the dwelling units may be of different sizes and that the actual cost of exterior maintenance may vary. However, such assessments shall be equal for all Lots unless this declaration be amended to provide otherwise. Notwithstanding the foregoing provisions, no assessment shall be payable by or assessed against any Lot upon which a dwelling structure has not been constructed.

5. Quorum for Any Action Authorized Under Section 3. At any meeting called, as provided in Section 3 hereof, the presence at the meeting of Members or of proxies to cast fifty-one percent (51%) of all votes of the Membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Section 3 and the required quorum at such subsequent meeting. No such subsequent meeting shall be held more than sixty (60) days following the date of the meeting at which no quorum was forthcoming.

6. Date of Commencement of Annual Assessments: Due Dates. Except as provided in Paragraph 9 of this Article V, all



Lots upon which buildings have been constructed shall be subject to the annual or monthly assessments provided for herein on the first day of the month following the issuance of a certificate of occupancy permit by the City of Boise for the particular unit on the Lot. No assessment shall be levied against or payable by any Lot on which no dwelling has been constructed. The Board of Directors shall fix the amount of the regular assessment at least thirty (30) days in advance of each assessment period (provided that the assessment for calendar year 1988 may be fixed, and notice thereof given, at a later date, effective for the full calendar year). Written notice of the assessment dates shall be established by the Board of Directors. The Association shall, upon demand at any reasonable time, furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a particular Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

7. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of twelve per cent (12%) per annum. The Secretary of the said Association shall file in the office of the County Recorder, Ada County, Idaho, a lien reflecting the amount of any such charges or assessments, together with interest, as aforesaid, which have become delinquent with respect to any lot on Said Property, and upon payment in full thereof, shall execute and file a proper release of the lien releasing the same. The aggregate amount of such assessments, together with interest, costs and expenses and a reasonable attorneys' fee for the filing and enforcement thereof, shall constitute a lien on the whole lot (including any improvement located thereon), with respect to which it is fixed from the date the lien is filed in the office of said County Recorder for Ada County, Idaho, until the same has been paid or released as herein provided. Such lien may be enforced by said Association in the manner provided by law with respect to liens upon real Property. The Owner of Said Property at the time said assessment is levied shall be personally liable for the expenses, costs and disbursements, including attorneys' fees of the Declarant or of the Association, as the case may be, of processing and if necessary, enforcing such liens, all of which expenses, costs and disbursements and attorneys' fees shall be secured by said lien, including all aforementioned expenses, costs, disbursements and fees on appeal, and such owner at the time such assessment is levied, shall also be liable for any deficiency remaining unpaid after any foreclosure sale. No owner may waive or otherwise escape liability for the assessments

provided for herein by nonuse of the Common Areas or abandonment of his dwelling unit.

8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be inferior, junior and subordinate to the lien of all Mortgages and trust deeds now or hereafter placed upon Said Property or any part thereof. The sale or transfer of any Lot or any other part of Said Property shall not affect the assessment lien. However, the sale or transfer of any Lot which is subject to any Mortgage, pursuant to a judgment or decree of foreclosure under such Mortgage or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to amounts thereof which became due prior to such sale or transfer; and such lien shall attach to the net proceeds of sale, if any, remaining after such Mortgages and other prior liens and charges have been satisfied. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

9. Exempt Property. The following Property subject to this Declaration shall be exempt from the assessments created herein;

- (a) all properties expressly dedicated to and accepted by a local public authority;
- (b) any Common Areas;

10. Notice to Mortgagees. The Association shall give to the Mortgagee of any recorded Mortgage, which has furnished to the Association its name and current address, written notification of any default by the Mortgagor of performance with respect to such Mortgagor's obligations under this Declaration, By-Laws of the Association or any duly adopted rules or regulations of the Association at least twenty (20) days prior to the filing of suit by the Association to enforce those remedies with respect to such default.

11. Mortgagee's Approval. The Association shall not undertake or cause to be undertaken the following acts without the prior written consent of seventy-five (75%) percent of the first Mortgagees (based upon one vote for each Mortgagee), if such acts would materially lessen the security of such Mortgagees:

- (a) Abandon, partition, subdivide, encumber, sell or transfer real estate or improvements thereon which are owned, directly or indirectly, by the Association, except that the granting of easements for public utilities or for other public purposes consistent with the intended use of such Property by the Association shall be permitted;

(b) Change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;

(c) Change, waive or abandon any scheme or regulations or enforcement thereof, pertaining to architectural design, appearance or maintenance of structures or improvements located on the properties; and

(d) Use hazard insurance proceeds for losses to any Common Area improvements for other than the repair, replacement or reconstruction of such improvements.

12. Association Budget. The Association shall prepare an annual budget which shall indicate anticipated management, operating, maintenance, repair and other common expenses for the Association's next fiscal year and which shall be sufficient to pay all estimated expenses and outlays of the Association for the next calendar year growing out of or in connection with the maintenance and operation of the Common Area and improvements and may include, among other things, the cost of exterior maintenance, management, taxes, assessments, irrigation assessments, special assessments, fire, casualty and public liability insurance, common lighting, irrigation, landscaping and care of grounds, repairs, renovations and paintings to Common Areas, snow removal, wages, water charges, legal and accounting fees, management fees, expenses and liabilities incurred by the Association under or by reason of this Declaration, the payment of any deficit remaining from a previous period, and the creation of any reasonable contingency or other reserve or surplus fund, as well as all costs and expenses relating to the Common Area and improvements. As part of the regular annual assessments for maintenance authorized above, the Board of Directors shall annually fix the amount to be contributed pro rata by each Member to reserve funds for the purpose of defraying, in whole or in part, the cost or estimated cost of any reconstruction, repair or replacement of improvements, including fixtures and personal property related thereto. Such determination shall be made after consideration of the need for additional funds and of the Association's capital position. The Board shall maintain a separate account for those funds. The Board shall fix the method of payment of such assessments and shall be empowered to permit either lump sum or monthly payments. Separate records shall be maintained for all funds deposited to said account, which shall be designated as a Reserve Account.

The initial Budget to be adopted by the Board pursuant to this Declaration shall be for the calendar year 1988. Thereafter, each budget shall be for the ensuing calendar year, which shall be the Association's fiscal year.

13. Repair, Etc. If any of the property located in the Common Area and/or improvements located upon other property located within the subdivision owned by the Association is damaged or destroyed, the Members shall, at a special meeting called for that purpose, determine whether to rebuild, repair, restore or otherwise take action with regard to such damage or destruction. A quorum shall be necessary for any such decision, in accordance with the provisions of paragraphs 3 and 5 hereof and further, any such action shall be approved by the affirmative vote of not less than fifty-one percent (51%) of the votes of Members who are voting in person or by proxy at such meeting duly called for this purpose, written notice of which shall be sent to all Members not less than ten (10) days nor more than fifty (50) days in advance of the meeting, unless waived in writing.

#### ARTICLE VI

##### ARCHITECTURAL CONTROL

1. Approval. No building, fence, wall, hedge, structure, addition, painting, improvement, obstruction, ornament, addition, or planting shall be placed upon, added or permitted to remain upon any part of Said Property unless a written request for approval thereof containing the plans and specifications therefor, including exterior color scheme, has been approved in writing by the Board of Directors of the Association. Applications for approval shall be made to the Association's Board of Directors. In the event said Board fails to approve or disapprove such design or location within thirty (30) days after said plans and specifications have been submitted in writing, approval shall not be required and this article will be deemed to have been fully complied with.

#### ARTICLE VII

##### MAINTENANCE AND INSURANCE

1. Maintenance of Common Areas, Etc. The Association shall maintain or provide for the maintenance of the Common Areas and Limited Common Areas, including but not limited to, sanitary sewer, water lines and drainage facilities within the Common Areas, and in addition, the drainage facilities and lines upon Lots privately owned within the subdivision.

2. Interior Maintenance. Each owner shall be responsible for maintaining and keeping in good order and repair the interior of his own dwelling unit, the deck of the balcony and the surface of patio areas.

3. Exterior Maintenance. The Association shall maintain or provide for the maintenance of the exterior of all residences and fences constructed on Lots which shall be a common expense of the Association, excluding, however, door exteriors and windows.

4. Types of Insurance. The Association shall obtain and keep in full force and effect at all times, the following insurance coverage provided by companies duly authorized to do business in Idaho. The provisions of this Article shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Association may deem appropriate from time to time.

(a) Casualty Insurance. Each Lot, improvements constructed thereon, and carports, if any, shall at all times be insured for the full replacement thereof in the event of damage or destruction, including fire and extended coverage, which policy or policies shall be purchased by the Association and show the Association, the Owners and Mortgagees as named insureds as their interest may appear. The Association may comply with the above requirements by the purchase of blanket coverage and may elect such "deductible" provisions as in the Association's opinion are consistent with good business practice. No individual Owner shall be excused from assessments attributable to such policy for any reason and the existence of such a blanket policy is declared to be in the mutual interests of all Owners and the Declarant, except upon the approval of the Members who are entitled to vote two-thirds (2/3) of all the votes of Members who are voting in person or by proxy at a meeting duly called for this purpose.

(b) Public Liability and Property Damage Insurance. The Association shall purchase broad form comprehensive liability coverage in such amounts and in such forms as it deems advisable to provide adequate protection. Coverage shall include, without limitation, liability for the personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance and other use of the Project.

(c) Workmen's Compensation and Employer's Liability Insurance. The Association shall purchase workmen's compensation and employer's liability insurance and all other similar insurance in respect of employees of the Association in the amounts and in the forms now or hereafter required by law for any employees of the Association.

(d) Fidelity Insurance. The Association shall purchase in such amounts and in such forms as it shall deem appropriate, coverage against dishonesty of employees, destruction or disappearance of money or securities, and forgery.

(e) Other. The Association may obtain insurance against such other risks, of a similar or dissimilar nature as it shall deem appropriate with respect to the Project, including any personal property of the Association located thereon.

(f) Form. Casualty Insurance shall be carried in a form or forms naming the Association the insured, as trustee for the Owners, which policy or policies shall specify the interest of each Owner (Owner's name, Unit number, the appurtenant undivided interest in the Common Area), and which policy or policies shall provide a standard loss payable clause providing for payments of insurance proceeds to the Association as trustee for the Owners and for the respective first Mortgagee which from time to time shall give notice to the Association of such first Mortgagees, such proceeds to be used in accordance with this Declaration. Each policy shall also provide that it cannot be cancelled by either the insured or the insurance company until after ten (10) days prior written notice is first given to each Owner and to each first Mortgagee. The Association shall furnish to each Owner and to Declarant a true copy of such policy together with a certificate identifying the interest of the Owner. All policies of insurance shall provide that the insurance thereunder shall be invalidated or suspended only in respect to the interest of any particular Owner guilty of breach of warranty, act, omission, negligence or noncompliance with any provision of such policy, including payment of the insurance premium applicable to that Owner's interest, or who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy. All policies of insurance shall provide further that the insurance under any such policy as to the interest of all other insured Owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect.

Public liability and property damage insurance shall name the Association the insured, as trustee for the Owners, and shall protect each Owner against liability for acts of the Association, its agents and employees, in connection with the Ownership, operation, maintenance or other use of the Project.

(g) Owner's Responsibility. Insurance coverage on the furnishings initially placed in the Unit by Declarant, and

casualty and public liability insurance coverage within each individual Unit and for activities of the Owner, not acting by the Association, with respect to the Common Area, insurance coverage against loss from theft on all personal property and insurance coverage on items of personal property placed in the Unit by Owner, shall be the responsibility of the respective Owners.

(h) Insurance Proceeds. The Association shall receive the proceeds of any casualty insurance payments received under policies obtained and maintained pursuant to this Article. The Association shall apportion the proceeds to the portions of the proceeds attributable to damage to the Common Area. To the extent that reconstruction is required herein, the proceeds shall be used for such purpose. To the extent that reconstruction is not required herein and there is a determination that the Project shall not be rebuilt, the proceeds shall be distributed to the Owners equally. Each Owner and each Mortgagee shall be bound by the apportionments of damage and of the insurance proceeds made by the Association pursuant hereto.

(i) Owner's Own Insurance. Notwithstanding the provisions of Section 11.1 hereof, each Owner may obtain insurance at his own expense providing coverage upon his Lot, his personal property, for his personal liability, and covering such other risks as he may deem appropriate, but each such policy shall provide that it does not diminish the insurance carrier's coverage for liability arising under insurance policies which the Association obtains pursuant to this Article. All such insurance shall waive the insurance company's right of subrogation against the Association, the other Owners, and the servants, agents and guests of any of them, if such insurance can be obtained in the normal practice without additional premium charge for the waiver of rights of subrogation.

## ARTICLE VIII

### CASUALTY DAMAGE OR DESTRUCTION

1. Affects Title. Title to each Lot is hereby made subject to the terms and conditions hereof, which bind the Declarant and all subsequent Owners, whether or not it be so expressed in the deed by which any Owner acquires his Lot.

2. Association as Agent. All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney in fact in their name, place and stead for the

purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute such appointment.

3. General Authority of Association. As attorney in fact, the Association shall have full and complete authorization, right and power to make, execute and deliver any contract, deed, or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted. Repair and reconstruction of the improvements as used in the succeeding subparagraphs mean restoring the Project to substantially the same condition in which it existed prior to damage, with each dwelling unit and improvements, having substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the Association for the purpose of repair or reconstruction unless the Owners and all first Mortgagees unanimously agree not to rebuild in accordance with the provisions set forth hereinafter.

In the event any Mortgagee should not agree to rebuild, the Association shall have the option to purchase such Mortgage by payment in full of the amount secured thereby if the Owners are in unanimous agreement not to rebuild. The Association shall obtain the funds for such purpose by special assessments under Article V of this Declaration.

4. Estimate of Costs. As soon as practicable after an event causing damage to, or destruction of, any part of the Project, the Association shall obtain estimates that it deems reliable and complete of the costs of repair or reconstruction of that part of the Project damaged or destroyed.

5. Repair or Reconstruction. As soon as practicable after receiving these estimates, the Association shall diligently pursue to completion the repair or reconstruction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect repair or reconstruction, as attorney in fact for the Owners, and no consent to other action by any Owner shall be necessary in connection therewith. Such repair or reconstruction shall be in accordance with the original plans and specifications of the Project or may be in accordance with any other plans and specifications the Association may approve, provided that in such latter event the number of cubic feet and the number of square feet of any Unit may not vary by more than five percent (5%) from the number of cubic feet and the number of square feet for such dwelling units as originally constructed pursuant to such original plans and specifications and the location of the buildings shall be substantially the same as prior to damage or destruction.



6. Funds for Reconstruction. The proceeds of any insurance collected shall be available to the Association for the purpose of repair or reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair or reconstruction, the Association, pursuant to Article V hereof, may levy in advance a special assessment of repair or reconstruction. Such assessment shall be allocated and collected as provided in that Article. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair or reconstruction.

7. Disbursement of Funds for Repair or Reconstruction. The insurance proceeds held by the Association and the amounts received from the assessments provided for in Section 12.6 constitute a fund for the payment of cost of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for cost of repair or reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of repair or reconstruction, such balance shall be distributed to the Owners in proportion to the contributions by each Owner pursuant to the assessments by the Association under Section 6 of this Declaration.

8. Decision Not to Rebuild. If all Owners and all holders of first Mortgages on Lots agree not to rebuild, as provided herein, the Project shall be sold and the proceeds distributed in the same manner herein provided in the event of sale of obsolete Units, as set forth in Article VII, Section 4(b).

## ARTICLE IX

### PROPERTY USE RESTRICTIONS

The following restrictions shall be applicable to the real Property subject to this declaration and shall be for the benefit of, and limitation upon, all present and future Owners of Said Property or any interest therein:

(a) Unless written approval is first obtained from the Board of Directors, no sign of any kind shall be displayed to public view on any building or Building Site on Said Property except one professional sign of not more than five square feet advertising the Property for sale or rent, or signs used by American Savings and Loan Association ("American") or its successors (if such successor acquires all of the remaining lots owned by American) to advertise the Property during the construction and sales period. If a property is sold or rented, any sign relating thereto shall be removed immediately except that the Declarant and only Declarant or

its agent may post a "sold" sign for a reasonable period following a sale.

(b) No animals, birds, insects or livestock shall be kept on Said Property except domesticated dogs, cats or other common household pets which do not unreasonably bother or constitute a nuisance to others and on such portions of roads and other public ways or easements as may be designed or permitted for such use from time to time by Grantor. No dogs or cats in excess of two shall be kept by any residential household within said subdivision, and no animals of any kind shall be bred or kept for commercial purposes. All dogs must be leashed when outside a dwelling unit, and shall not be allowed in the Common Area or kenneled outside the dwelling units.

(c) No part of Said Property shall be used or maintained as a dumping ground for rubbish, trash, garbage, or any other waste. No garbage, trash, or other waste shall be kept or maintained on any part of Said Property except in a sanitary container. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and shall not be permitted to be in public view.

(d) No noxious or offensive or unsightly conditions shall be permitted upon any part of Said Property, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

(e) No trailer, camper-truck, tent, garage, barn, shack or other outbuilding shall at any time be used as a residence temporarily or permanently on any part of Said Property.

(f) Parking of junk cars or other unsightly vehicles, shall not be allowed on any part of Said Property nor on public ways adjacent thereto. All other parking of equipment shall be prohibited except as approved in writing by the Board of Directors. Automobiles shall not be parked upon the portions of the Common Area designated as streets.

(g) No Owner shall remove or otherwise alter any plant or tree or any landscaping or improvements in any Common Area without the written consent of the Board of Directors.

(h) The Owners shall not materially change the color of paint, stain, or finish from that initially placed upon the exterior of the improvements placed upon Said Property without first obtaining the approval of the Board of Directors.

(i) Each Owner shall at the Owner's sole cost and expense landscape his Lot, and maintain the landscaping thereon, provided that the Association shall, after installation of landscaping by each Owner on his Lot, maintain the installed landscaping on the front yard area.

(j) No overhangs, wing walls or other architectural appendages shall encroach or project onto adjoining lots.

(k) There shall be no television antenna, ham radio antenna, or other appurtenances or appendages to any dwelling unit except as are approved by the Board of Directors.

(l) There shall be no metal storage nor wood storage attachments to any dwelling unit except as approved by the Board of Directors.

(m) All dwelling units within the subdivision shall be used solely for residential purpose and shall be occupied by not more than one family unit.

(n) Adoption of Rules: The Association through its Board of Directors may adopt reasonable rules not inconsistent with this Declaration relating to the use of the Common Area and all facilities thereon, and the conduct of owners and their tenants and guests with respect to the Property and other owners.

(o) Use of Recreational Facilities in the Common Area: The Association shall have the power to limit the number of an owners guests who may use the recreational facilities.

(p) Right to Lease: The respective individual townhouse units or any portion thereof shall not be rented by the owners thereof for transient or hotel purposes, which shall be defined as (a) rental for any period less than thirty (30) days, or (b) any rental if the occupants of the unit are provided customary hotel service such as room service for food and beverage, maid services, furnishing laundry and linens, and bellboy service. Subject to the foregoing restrictions, the owners of the respective condominiums shall have the absolute right to lease same provided that the lease is made subject to the covenants, conditions, restrictions, limitations and uses contained in this Declaration.

(q) Clothes Lines: No exterior clothes lines shall be erected or maintained and there shall be no outside laundering or drying of clothes. Further, no clothes washers, clothes dryers, refrigerators or freezers may be kept, stored or operated on any balcony, patio, porch or other exterior area.

(r) Drapes: No portion of any drapes, blinds or curtains which are installed on the interior of any residence which may be seen from outside such residence shall be of a color, texture or material which, in the reasonable opinion of the Board or Architectural Control Committee, is inharmonious with the exterior appearance of all residences.

(s) Basketball Standards: No basketball standard or fixed sports apparatus shall be attached to the exterior surface of any residence or garage or affixed to any portion of the Common Area.

## ARTICLE X

### EASEMENTS

1. General. All conveyances of Lots, and the Common Area shall be subject to the foregoing restrictions, conditions and covenants, whether or not the same be expressed in the instruments of conveyance, and each and every such instrument of conveyance shall likewise be deemed to grant and reserve, whether or not the same be declared therein, mutual and reciprocal easements over and across and under all Common Areas and easements over all Lots for maintenance and otherwise as authorized by this Declaration, and easements as otherwise shown on the plat for the Property, and excepting any portion of Said Property which may now or hereafter be occupied by a residence. The Said Property shall not thereafter be subject to any easement not theretofore applied to use or provided for herein, for the purpose of building, constructing and maintaining thereon underground or concealed electric and telephone lines, gas, water, sewer, storm drainage lines, radio or television cables and other services now or hereafter commonly supplied by public utilities or municipal corporations. All of said easements shall be for the benefit of all present and future Owners of property subjected to the jurisdiction of the Association by covenants and restrictions recorded and approved as hereinabove provided; said easements however shall not be unrestricted, but shall be subject to reasonable rules and regulations governing rights of use as adopted from time to time by the Directors of the Association in the interests of securing maximum safe usage of Said Property without unduly infringing upon the rights or privacy of the Owner or occupant of any part of Said Property. The easements provided for in this article are in addition to those set forth in Article IV and Article VII.

2. Common Areas. A further mutual and reciprocal easement for sidewalk purposes is granted and reserved over and across the Common Areas in the Said Property, for the purpose of constructing and maintaining and repairing sidewalks for the benefit of the residents of Said Property, their tenants and

guests, for ingress and egress subject, however, to rules and regulations reasonably restricting the right to use thereof for the safety and welfare of the public as may be promulgated from time to time by the Association and/or public authority.

3. Party Walls. The dwelling units constructed upon the Lots include Party Walls, being the common walls between two dwelling units, separating the units. Such Party Walls are intended to be constructed upon the Lot boundary lines separating adjoining Lots. To the extent any Party Walls exists, encroaches or overlaps upon a Lot, there is hereby created a common reciprocal easement for the location of such Party Wall. Each Owner shall have the right to use the surface of any Party Wall contained within the interior of the Owner's dwelling unit, provided that an Owner shall not drive, place or cause to be driven or placed any nail, bolt, screw or other object into a Party Wall which penetrates the surface of such Party Wall more than one inch. The Owners shall respectively own to the centerline of any Party Wall. In the event any Party Wall is damaged or destroyed through the act or negligence of an Owner, that Owner shall be obligated to repair or replace the Party Wall.

## ARTICLE XI

### GENERAL PROVISIONS

1. Enforcement. The Association, or any Owner, or the Owner of any recorded Mortgage upon any part of Said Property, shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association, or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In the event suit is brought to enforce the covenants contained herein the prevailing party shall be entitled to recover a reasonable attorney fee in addition to allowable costs.

2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise effect any other provisions which shall remain in full force and effect.

3. Term of Restrictions and Amendment. These restrictions shall run with the land described herein, and shall be binding upon the parties hereto and all successors in title or interest to said real property or any part thereof, until January 1, 2018, at which time said restrictions shall be automatically extended for successive periods of ten (10) years unless the Owner or Owners of the legal title to not less than two-thirds of

the platted Lots, by an instrument or instruments in writing, duly signed and acknowledged by them, shall then terminate or amend said restrictions. Such termination or amendment shall become effective upon the filing of such instrument or instruments for records in the office of the Recorder of Ada County, Idaho. Such instrument or instruments shall contain proper references by volume and page numbers to the records of the plats and record of this deed in which these Restrictive Covenants are set forth, and all amendments thereof.

4. No Right of Reversion. Nothing herein contained in this Declaration, or in any form of deed which may be used by Declarant, or its successors and assigns, in selling Said Property, or any part thereof, shall be deemed to vest or reserve in Declarant or the Association any right of reversion or re-entry for breach or violation of any one or more of the provisions hereof.

5. Benefit of Provisions - Waiver. The provisions contained in this Declaration shall bind and inure to the benefit of and be enforceable by Declarant, the Association and the Owner or Owners of any portion of Said Property, and their heirs and assigns, and each of their legal representatives, and failure by Declarant or by the Association or by any of the Property Owners or their legal representatives, heirs, successors or assigns, to enforce any of such conditions, restrictions or charges herein contained shall in no event be deemed a waiver of the right to do so.

6. Assignment by Declarant. Any or all rights, powers and reservations of Declarant herein contained may be assigned to the Association or to any other corporation or association which is now organized or which may hereafter be organized and which will assume the duties of the Declarant hereunder pertaining to the particular rights, powers and reservations assigned; and upon any such corporation or association evidencing its intent in writing to accept such assignment and assume such duties it shall, to the extent of such assignment have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein. All rights of Declarant hereunder reserved or created shall be held and exercised by the Declarant alone, so long as it owns any interest in any portion of Said Property.

7. Mortgagees' Right to Satisfy Obligations of the Association. In the event that the Association fails to pay any debt or sum lawfully owed by it, for which a lien has been placed against the Association common Property, or in the event that the Association fails to pay premiums due on insurance policies required by these covenants, the lapse of which would jeopardize a Mortgagee's security, a Mortgagee may pay said sum of premium after first having served five (5) days' written demand for such

payment on the Association. In the event that the Association has allowed said insurance policies to lapse, a Mortgagee whose security is jeopardized thereby may secure new comparable insurance coverage. In the event that a Mortgagee makes payments allowed hereunder it shall be entitled to prompt reimbursement from the Association.

8. Amendment. Notwithstanding anything contained in the foregoing Declaration or in the Articles of Incorporation or By-Laws for Oakhurst Townhouses Homeowners Association, any amendment of this Declaration shall require the approval of at least two-thirds (2/3) of the Lot Owners and two-thirds (2/3) of the holders of first Mortgages upon the Lots.

9. Right of Secession and Withdrawal. The Property subject to this Right of Secession and Withdrawal shall be Lots 35 through 58, Lots 5 and 6, and the hereinafter described Easterly portion of Lot 2, of Oakhurst Townhouses Subdivision, according to the Plat thereof filed for record in the Recorder's office of Ada County, Idaho (Said Property being hereinafter referred to as the "Withdrawal Lots"). Notwithstanding any other provision hereinabove, or in the Association Articles of Incorporation or By-Laws, Declarant (or the successor in interest of Declarant, if such successor acquires title to all Withdrawal Lots) shall have the right at any time to withdraw said Withdrawal Lots from the effect and encumbrance of this Declaration, and secede from the effect hereof and from the Association (as to such Lots). Such withdrawal and secession shall be effected by the Declarant (or its successor in interest) recording a document setting forth such withdrawal and secession. Such withdrawal and secession shall be conditioned upon no residential dwelling having been theretofore constructed or erected upon any Withdrawal Lot, and Declarant or its successor in interest withdrawing all Withdrawal Lots. In the event Declarant or its successor in interest shall exercise this right, Declarant or its successor in interest shall, prior to doing so, cause a survey to be made of Lot 2 of Oakhurst Townhouses Subdivision, which survey shall establish a straight line from the North to the South boundary lines of said Lot 2, equidistant between Lots 27 through 34 (on the West) and Lots 35 through 42 (on the East). The portion of Lot 2 East of said line, and Lots 5 and 6, shall be conveyed by the Association to Declarant or its successor in interest, and such Property shall cease to be Common Area, and shall not be subject to any further right, title or interest in, of or by the Association or the Owners. Upon withdrawal the Withdrawal Lots shall cease to be encumbered or otherwise affected by this Declaration. Mortgagee's approval under Article V, Section II, hereinabove, shall not be required for such secession.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands in execution hereof effective as of the 5th day of January, 1988.

AMERICAN SAVINGS AND LOAN ASSOCIATION

By Ann C. Seck  
Its ASST Vice PRESIDENT

By Susan K. Williams  
Its ASST SECRETARY

OWNERS

Ramona Himerich  
Ramona Himerich

~~Maureen G.M. Daly~~

Christine M. Olson  
Christine M. Olson



STATE OF IDAHO )  
 )  
 ) ss.  
County of Ada )

On this 2<sup>nd</sup> day of February, 1988, before me, Ruth TRIAKAUS, a Notary Public in and for said State, personally appeared ANN SUES, known or identified to me to be the ASST VICE PRES of AMERICAN SAVINGS AND LOAN ASSOCIATION, the corporation that executed the within 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 affixed my official seal the day and year in this certificate first above written.

Ruth Triakaus  
Notary Public for Idaho  
Residing at Dalmpa, Idaho  
My commission expires on 12-10-1991

STATE OF CALIFORNIA )  
 )  
COUNTY OF San Joaquin)

On this 4th day of February, 1988, before me, the undersigned, a Notary Public in and for said State, personally appeared Susan K. Williams, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument as Assistant Secretary, on behalf of American Savings and Loan Association, a California Corporation, the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its bylaws or a resolution of its board of directors.

WITNESS my hand and official seal.

Signature Shirley J. Romalia



STATE OF IDAHO )  
 ) ss.  
County of Ada )

On this 2<sup>nd</sup> day of February, 1988, before me,  
Ruth TRINKAUS, the undersigned, a Notary  
Public in and for said State, personally appeared RAMONA  
HIMERICH, known or identified to me to be the person whose name  
is subscribed to the foregoing instrument, and acknowledged to me  
that she executed the same.

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

Ruth Trinkaus  
Notary Public for Idaho  
Residing at Nampa, Idaho  
My commission expires on 12/10, 1991.

~~STATE OF IDAHO )  
 ) ss.  
County of Ada )~~

~~On this \_\_\_\_\_ day of February, 1988, before me,  
\_\_\_\_\_, the undersigned, a Notary  
Public in and for said State, personally appeared MAUREEN G.M.  
DALY, known or identified to me to be the person whose name is  
subscribed to the foregoing instrument, and acknowledged to me  
that she executed the same.~~

~~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 Idaho  
Residing at \_\_\_\_\_, Idaho  
My commission expires on \_\_\_\_\_, 19\_\_~~

STATE OF IDAHO )  
 ) ss.  
County of Ada )

On this 2<sup>nd</sup> day of February, 1988, before me,  
Ruth TRINKAUS, the undersigned, a Notary  
Public in and for said State, personally appeared CHRISTINE M.  
OLSON, known or identified to me to be the person whose name is  
subscribed to the foregoing instrument, and acknowledged to me  
that she executed the same.

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

Ruth Trinkaus  
Notary Public for Idaho  
Residing at Nampa, Idaho  
My commission expires on 12-10, 1991

Adm County, Idaho  
Request of  
Healy, Gredler et al  
TIME 3:51 P.M.  
DATE 2-6-88  
JOHN BASTIDA  
RECORDER  
Barbara Miller  
Deputy  
TJM