DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

for

Northridge No. 5 Subdivision

ADA COUNTY, IDAHO

Recorded	Recorded with	Instrument No.
December 6, 2001, 12:04 p.m.	Ada County Recorder	101129126

Reformatted copy for easier reading. This is a word-for-word transcription of the recorded Declaration (the CC&Rs), including the Affidavit Authorizing Change recorded January 16, 2002 (Instrument No. 102006067). Spelling, punctuation and wording are unchanged, including the original's typographical errors; only the layout is new. Handwritten entries on the original are shown *underlined in italics*, and *[grey bracketed notes]* describe signatures, seals and recording stamps rather than text. If this copy and the recorded original ever differ, the recorded original controls.

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR NORTHRIDGE No. 5 SUBDIVISION (this "Declaration") is made effective as of the *5* day of *December* 2001, by Northridge No. 5, LLP ("Grantor" and "Class B Member").

ARTICLE I: RECITALS

1.1 Property Covered. The property subject to this Declaration is that certain real property in Ada County, State of Idaho, more particularly described as follows:

> *NORTHRIDGE NO. 5 SUBDIVISION, according to the official plat thereof, recorded in Book ____ of Plats at Pages ____ and ____, as Instrument No. ____, recorded on the ____ day of ____ 2001.*

1.2 Purpose of Declaration. The purpose of this Declaration is to set forth the basic restrictions, covenants, limitations, easements, conditions, plans and equitable servitudes (collectively, the "Restrictions") that will apply to the entire development and use of all portions of the Property. The Restrictions are designed to preserve the Property's value, desirability and attractiveness, and to guarantee adequate maintenance of the Common Area, and the Improvements located thereon.

ARTICLE II: DECLARATION

2.1 Declaration. Grantor hereby declares that the Property, and each lot, parcel or portion thereof, is and/or shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following terms, covenants,

conditions, easements and restrictions, all of which are declared and agreed to be in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of the Property, and to enhance the value, desirability and attractiveness of the Property. The terms, covenants, conditions, easements and restrictions set forth herein: shall run with the land constituting the Property and with each estate therein, and shall be binding upon all persons having or acquiring any right, title or interest in the Property or any lot, parcel or portion thereof; shall inure to the benefit of every lot, parcel or portion of the Property and any interest therein; and shall inure to the benefit of and be binding upon Grantor, Grantor's successors in interest and each grantee or Owner of such grantee's or Owner's respective successors in interest, and may be enforced by Grantor, by any Owner or such Owner's successors in interest, or by the Association.

Notwithstanding the foregoing, no provision of this Declaration shall be construed as to prevent or limit Grantor's right to complete development of the Property and to construct improvements thereon, nor Grantor's right to maintain model homes, construction, sales or leasing offices or similar facilities on any portion of the property, including Common Area or any public right-of-way, nor Grantor's right to post signs incidental to construction, sales or leasing.

2.2 Reservation of Rights. Grantor reserves its right to make such uses of any lands owned in the vicinity of the Property for any and all uses as may be permitted under the applicable law, including, but not limited to, commercial, agricultural and recreational uses. By acceptance of a deed to any building lot, each Owner hereby covenants and agrees that it shall have no right to object to or interfere with any such uses of Grantor's other lands.

There is hereby reserved to the Grantor, together with the right of the Grantor to grant and transfer the same, the following: (1) all oil, oil rights, minerals, minerals rights, natural gas rights and other hydrocarbons by whatever name known, and the rights in connection therewith; (2) geothermal water and steam and all products derived from any of the foregoing that may be within or under the land comprising the Property; (3) the perpetual right of drilling, mining, exploring and operating therefore and scoring in and removing the same from said Property or any other land, including the right to whipstock or directionally drill and mine from other land other than land within the Property, oil and gas wells, tunnels and shafts into, through or across the subsurface of land within the Property and to bottom such whipstock or directionally drilled wells, tunnels and shafts under and beneath or beyond the exterior limits thereof, and to redrill, retunnel, equip, maintain, repair, deepen and operate any such wells or mines without, however, the right to drill, mine, store, explore and operate through the surface or the upper 50 feet of the subsurface of the Property.

ARTICLE III: DEFINITIIONS

3.1 "Articles" shall mean the Articles of Incorporation of the Association or other organizational or charter documents of the Association.

3.2 "Assessments" shall mean those payments required of Owners and Association Members.

3.3 "Association" shall mean Northridge No. 5 Subdivision Homeowners' Association, Inc., a non-profit corporation organized under the laws of the State of Idaho, its successors and assigns.

3.4 "Board" shall mean the Board of Directors or other governing board or individual, if applicable, of the Association.

3.5 "Building Lot" shall mean one or more lots as specified or shown on any Plat upon which Improvements may be constructed. The term "Building Lot" shall include single-family residential lots, but shall not include the Common Area.

3.6 "Bylaws" shall mean the Bylaws of the Association.

3.7 "Common Area" shall mean Lot 7 Block 3.

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

3.9 "Grantor" shall mean Northridge No. 5, LLP, and any successor in interest, or any person or entity to whom the rights under this Declaration are expressly transferred by Northridge No. 5, LLP.

3.10 "Improvement" shall mean any structure, facility or system, or other improvement or object, whether permanent or temporary, which is erected, constructed or placed upon, under or in any portion of the Property, including but not limited to buildings, fences, streets, drives, driveways, sidewalks, curbs, landscaping, signs, lights, street lights, mail boxes, electrical lines, pipes, pumps, ditches, ponds, and fixtures of any kind whatsoever.

3.11 "Limited Assessment" shall mean a charge against a particular Owner and such Owner's Building Lot, directly attributable to the Owner, equal to the cost incurred by the Association for corrective action performed pursuant to the provisions of this Declaration, including interest thereon as provided in this Declaration.

3.12 "Member" shall mean each person or entity holding a membership in the Association.

3.13 "Northridge No. 5 Subdivision" shall mean the Property.

3.14 "Owner" shall mean the person or other legal entity, including Grantor, holding fee simple interest of record to a Building Lot which is a part of the Property, and sellers under executory contracts of sale, but excluding those having such interest merely as security for the performance of an obligation.

3.15 "Person" shall mean any individual, partnership, corporation or other legal entity.

3.16 "Plat" shall mean any subdivision plat covering any portion of the Property as recorded at the office of the County Recorder, Ada County, Idaho, as the same may be amended by duly recorded amendments thereof.

3.17 "Property" shall mean those portions of the Property described herein including each lot, parcel and portion thereof and interest therein, including all water rights associated with or appurtenant to such property.

3.18 "Regular Assessment" shall mean the portion of the cost of maintaining, improving, repairing, managing and operating the Common Area and all improvements located thereon, and the other costs of the Association which is to be levied against the Property and paid by each Owner to the Association, pursuant to the terms of this Declaration.

3.19 "Special Assessment" shall mean the portion of the costs of the capital improvements or replacements, equipment purchases and replacements or shortages in Regular Assessments which are authorized and to be paid by each Owner to the Association, pursuant to the provisions of this Declaration.

3.20 "Supplemental Declaration" shall mean any supplemental declaration including additional covenants, conditions and restrictions that might be adopted with respect to any additional property which might be annexed into the Property.

ARTICLE IV: GENERAL AND SPECIFIC RESTRICTIONS

4.1 Structures - Generally. All structures are to be designed, constructed and used in such a manner as to promote compatibility between the types of use contemplated by this Declaration.

4.1.1 Use, Size and Height of Dwellings, Structures and Other Site Elements. All Building Lots shall be used exclusively for single-family residential purposes. No Building Lot shall be improved except with a single-family dwelling unit or structure of frame, stone or brick construction and with no galvanized aluminum or other highly reflective building materials. No mobile homes shall be permitted. Subject to the right the Architectural Committee to reduce the maximum height set forth herein in order to preserve and maximize views, no building, structure or other site element shall exceed thirty-five (35) feet in height. Grantor specifically intends to vest the

Architectural Committee with authority to impose stricter height limitations than are set forth herein in order to preserve and protect views and view corridors in such situations and under such circumstances as the Architectural Committee may determine in its sole discretion, which said height limitations may be imposed upon any building, structure, landscaping improvement, including vegetation, or any other site element. No single-family structure shall have a first floor area of less than two thousand (2000) square feet (unless otherwise approved by the Architectural Committee) exclusive of garages, patios, breezeways, storage rooms, porches, and similar structures.

4.1.2 Accessory Structures. Detached structures including, without limitation, guesthouses, shall be allowed if in conformity with the provisions of this Declaration and as approved by the Architectural Committee, as provided more fully in Article VI below. There shall be no metal storage nor wood storage attachments to any dwelling unit except as approved by the Architectural Committee. Garages, storage sheds attached to the dwelling structure, and patio covers, shall be constructed of, and roofed with, the same materials, and with similar colors and designs, as the dwelling structure on the applicable Building Lot. Each dwelling structure shall have an attached or detached garage to house a minimum of two (2) cars, and shall also have permanently maintained off-street parking for two (2) vehicles. The primary driveway on each Building Lot shall be paved or concreted.

4.1.3 Exterior of Dwelling Structure. Each single-family structure shall have an exterior wall surface of masonry, brick, glass, and/or stucco which shall be of a consistent nature so as to compliment other such structures on the Building Lot. Minor highlight elements may be wood siding. The visual harmony and aesthetic appeal of the structures on the Building Lots being of mutual concern to all Owners and having a direct bearing on the value of Building Lots and Improvements thereon, the Architectural Committee shall have the right to control the texture, design and color scheme and materials of the outside walls, fences, roofs and patio roofs of all structures erected upon Building Lots, and to require landscaping pursuant to such Architectural Guidelines as may be adopted by the Architectural Committee pursuant to Section 6.3 below.

4.1.4 Location on Building Lot. All structures shall be placed on a Lot in the locations as approved by the Architectural Committee. Minimum building setbacks shall be as required by the Boise City Zoning Ordinance for the applicable zoning district.

4.1.5 Utilities. All utility facilities and/or systems used in connection with a Building Lot shall be placed underground.

4.1.6 Fences and Walls. No fences or walls shall be permitted in the front yard of any Building Lot, except as may be approved in writing by the Architectural Committee. Fences or walls in other locations, including fences or walls around swimming pools, dog runs or other uses, may be permitted under such circumstances, if any, as may be approved in writing by and in the sole discretion of the Architectural Committee. No dog-eared or chain link fences will be allowed.

4.1.7 Completion of Construction. Once any Owner of a Building Lot shall have commenced the construction of a dwelling unit or structure in compliance with the restrictions herein, such construction shall be completed within two (2) years thereafter. The term "commenced the construction" as used in this subparagraph shall mean the start of actual physical construction activities upon such dwelling unit or structure upon such Building Lot.

4.2 Landscaping. The initial Owner of any Building Lot shall install an automatic sprinkler system, grass and/or sod, and landscape the Building Lot in conformance with the landscape plan submitted by the Owner and approved by the Architectural Committee. All landscaping shall be completed within nine (9) months of occupancy or substantial completion of a Building Lot whichever is earlier. Lots that are purchased as an adjoining lot and not to be built on, will be landscaped within 90 days of the close of the purchase thereof. Prior to construction of Improvements, the Owner shall provide adequate irrigation, through the automatic sprinkler system, and maintenance of existing trees and landscaping, shall control weeds, and maintain the Owner's property in a clean and safe condition free of debris or any hazardous condition. Each Owner is responsible for irrigating and mowing all grass along road right-of-ways that border such Owner's Building Lot. All trees located on common Building Lot lines shall be the joint responsibility of the adjoining Building Lot owners.

4.3 Exterior Maintenance; Owner's Obligations. No Improvement shall be permitted to fall into disrepair, and each Improvement shall at all times be kept in good condition and repair as provided in this Declaration. No Owner shall permit any Improvements, including trees and landscaping, which is the responsibility of such Owner to maintain, to fall into disrepair so as to create a dangerous unsafe, overgrown, weed infested, unsightly or unattractive condition, or damages property or facilities on or adjoining their Building Lot. In the event that any Owner shall permit any Improvement, including trees and landscaping, which is the responsibility of such Owner to maintain, to fall into disrepair so as to create a dangerous, unsafe, overgrown, weed-infested, unsightly or unattractive condition, or damages property or facilities adjoining their Building Lot which would otherwise be the Associations' responsibility to maintain, the Board upon fifteen (15) days prior written notice to the Owner of such property, shall have the right to correct such

condition, and to enter upon such Owner's Building Lot for the purpose of doing so, and such Owner shall promptly reimburse the Association, for the cost thereof. Such cost shall be a Limited Assessment and shall create a lien enforceable in the same manner as other Assessments set forth in Article IX of this Declaration. The Owner of the offending property shall be personally liable, and such Owner's property may be subject to a mechanic's lien for all costs and expenses incurred by the Association in taking such corrective acts, plus all costs incurred in collecting the amounts due.

4.4 Excavation. No excavation for stone, sand, gravel, earth or minerals shall be made upon a Building Lot unless such excavation is necessary in connection with the construction of an approved structure thereon.

4.5 Antennae. No exterior radio antenna, television antenna, satellite dish antennae or other antennae of any type shall be erected or maintained on the Property unless it is located or screened in a manner approved by the Architectural Committee.

4.6 No Temporary Structures. No house trailer, mobile home, tent (other than for short term individual or visitor use), shack or other temporary building, improvement or structure shall be placed upon any portion of the Property, except temporarily as may be required by construction activity undertaken on the Property.

4.7 No Abandoned Vehicles. No abandoned or inoperable, dilapidated or unrepaired and unsightly vehicles or similar equipment such as garden maintenance equipment or any other unsightly equipment and machinery shall be placed upon any portion of the Property unless the same are enclosed by a structure concealing them from view. "Abandoned or inoperable vehicle" shall be defined as any vehicle which has not been driven under its own propulsion for a period of three (3) weeks or longer, provided, however, this shall not include vehicles parked by Owners while on vacation. No oversized vehicles shall be stored in the area between the front plane of a dwelling unit on a Building Lot and any street, or in any dwelling unit setback area but shall be placed on the side or rear of the dwelling unit and reasonably screened from view. "Oversized" vehicles shall be defined as vehicles which are too high to clear the entrance to a residential garage.

4.8 No Parking or Storage of Vehicles and Equipment. No boats, trailers, motorcycles, trucks, truck campers, motorhomes, recreational vehicles, and like equipment, or farm or garden equipment, or junk cars or other unsightly vehicles shall be parked or stored on any Lot nor on public or private ways adjacent thereto, except in a fully enclosed structure or as may otherwise be approved in writing under such circumstances, if any, by the Architectural Committee.

4.9 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate anywhere upon the Property, and no odor shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to the Property or to its occupants, or to any other property in the vicinity thereof or to its occupants. All refuse, garbage and trash shall be kept at all times in covered, reasonably noiseless containers. Vacant Building Lots are to be kept in a clean natural state. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to the Property or to its occupants or to other property in the vicinity or to its occupants. No building materials of any kind shall be placed or stored on a Building Lot until the Owner of such Building Lot or such Owner's builder is ready and able to commence construction.

4.10 No Commercial Activities; No Hazardous Activities. Commercial or professional home occupations may be conducted on the Property provided such home occupation is non-obtrusive to other Owners, does not constitute a nuisance, and is in compliance with all applicable laws, ordinances, and regulations. No activities shall be conducted on the Property, and no improvements constructed on any property, which are or might be unsafe or hazardous to any person or property.

4.11 Exterior Energy Devices; Utilities. No energy production devices including, but not limited to, generators of any kind and solar energy devices, shall be constructed or maintained on any Building Lot without the prior written approval of the Architectural Committee, except for heat pumps or similar appliances shown on the plans approved by the Architectural Committee. All utility lines and facilities shall be placed underground.

4.12 Wildlife. In order to preserve and enhance the occupancy of wildlife within the subdivision and the enjoyment thereof by the owners, the following restrictions shall apply:

(a) Hunting shall be prohibited within the subdivision;

(b) Artificial feeding of big game and non-game animals shall be prohibited, provided, however, that wild songbirds may be fed with Idaho Department of Fish and Game approved birdfeed and further provided that any feeding trays are routinely cleaned to prevent the spread of disease;

(c) Only such action as shall be approved by the Idaho Department of Fish and Game may be taken to protect landscaped areas from wildlife foraging, such as wrapping wire around trees, using Fish and Game approved animal repellents, or planting vegetation less desirable to wildlife;

(d) Planting of invasive plant species in natural open space areas is prohibited; and

(e) The display and or discharge of fireworks are prohibited.

4.13 Animals/Pets. No animals shall be kept on the Property unless the presence of such creatures does not constitute a nuisance. Chronic dog barking shall be considered a nuisance. This paragraph does not apply to the keeping of up to two (2) domesticated dogs, up to two (2) domesticated cats, and other household pets which do not unreasonably bother or constitute a nuisance to others, provided such animals are not kept, bred or maintained for any commercial purpose. Dogs and other similar pets shall be on a leash when not confined to an Owner's Building Lot. Any such animal shall be properly restrained and controlled at all times. It shall be the obligation of each Owner to control such animals in accordance with all applicable laws and regulations. An Owner shall be personally responsible for damage caused on any portion of the Property by such Owner's animals and/or pets.

4.14 Drainage. Each Owner shall improve such Owner's Building Lot with a storm water detention facility approved by the Architectural Committee to detain and direct storm water into the Private Drainage System, as defined in Section 5.5.2.2, below. Each owner of a Lot serviced by such Private Drainage System shall be responsible for capturing all storm water from all roofs, decks and patios on their Lot by means of appropriate architectural features and transporting such storm water to the Private Drainage System without loss or pollution. Foundation drains may also be routed to the Private Drainage System. There shall be no interference with the established Private Drainage System over any portion of the Property, unless an adequate alternative provision is made for proper drainage and is first approved in writing by the Architectural Committee.

4.15 Grading. Each Lot owner on which grading or other work has been performed pursuant to a grading plan approved under the provisions of the Boise City Hillside and Foothill Areas Development Ordinance, or a building permit granted by the Boise City Building Department, shall maintain in perpetuity and repair all graded surfaces and erosion prevention devices, retaining walls, drainage structures, means or devices not the responsibility of the Ada County Highway District, or other public agency, as provided for herein, and plantings and ground cover installed or completed. Grading other than for foundations and footings will be restricted to that which is necessary to construct a driveway of 15%, or less, and comply with the hillside setback requirements of the Uniform Building Code (Section 1805.6.2, 1997 UBC). Outside of this, fills will be restricted to a maximum of two feet, cuts to a maximum of three feet, and retaining walls to a maximum of four feet in height above grade, or as may otherwise be approved by the City of Boise or as may otherwise be approved by the City of Boise and the Architectural Committee.

4.16 Signs. No sign of any kind shall be displayed to the public view without the approval of the Architectural Committee except: (1) such signs as may be used by Grantor in connection with the development of the Property and sale of Building Lots; (2) such signs identifying Northridge No. 5 Subdivision, or informational signs, of customary and reasonable dimensions as prescribed by the Architectural Committee displayed on or from the Common Area; (3) one (1) sign of customary and reasonable dimensions as prescribed by the Architectural Committee displayed by an Owner other than Grantor on or from a Building Lot advertising the residence for sale or lease; and (4) any sign required by any governmental agency. No sign shall be placed in the Common Area without the written approval of the Architectural Committee.

4.17 Insurance Rates. Nothing shall be done or kept on any Building Lot which will increase the rate of insurance on any other portion of the Property without the approval of the Owner of such other portion, nor shall anything be done or kept on the Property or a Building Lot which would result in the cancellation of insurance on any property owned or managed by the Association or which would be in violation of any law.

4.18 No Further Subdivision. No Building Lot may be further subdivided.

4.19 Exemption of Grantor. Nothing contained herein shall limit the right of Grantor to subdivide or resubdivide any portion of the Property, to grant licenses, to reserve rights-of-way and easements with respect to Common Area to utility companies, public agencies or others, or to complete excavation, grading and construction of Improvements to and on any portion of the Property owned by Grantor, or to alter the foregoing and its construction plans and designs, or to construct such additional Improvements as Grantor deems advisable in the course of development of the Property so long as any Building Lot in the Property remains unsold. Such right shall include, but shall not be limited to, erecting, constructing and maintaining on the Property such structures and displays as may be reasonably necessary for the conduct of Grantor's business of completing the work and disposing of the same by sale, lease or otherwise. Grantor need not seek or obtain Architectural Committee approval of any Improvements constructed or placed within the Property by Grantor, but this particular exception shall not apply to building(s) or structures(s) constructed by Grantor on a Building Lot owned by Grantor. Grantor shall have the right at any time prior to acquisition of title to a Building Lot by a purchaser from Grantor to grant, establish and/or reserve on that Building Lot additional licenses, reservations and rights-of-way to Grantor, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and disposal of the Property. The rights of Grantor hereunder may be assigned by Grantor to any successor in interest in connection with Grantor's interest in any portion of the Property, by an express written assignment recorded in the Office of the Ada County Recorder.

4.20 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.

4.21 Mailboxes. All mailboxes will be initially provided by Grantor and thereafter maintained by the Association.

4.22 Rock Outcroppings. The alteration, defacing or physical encroachment on any significant surface rock outcropping which changes the appearance and natural condition thereof shall be prohibited unless otherwise approved in writing by the Board of Directors of the Association.

4.23 Geotechnical Requirements. Prior to the issuance of a building permit by the City of Boise, or such other governmental entity having jurisdiction, for the construction of any Improvement on a Building Lot, the owner thereof shall apply for and obtain a hillside and foothill development permit in accordance with the provisions of the Hillside and Foothill Areas Development Ordinance Title 11, Chapter 14, Boise City Code, as it may be amended from time to time. In connection therewith, the owner of each Building Lot shall cause to be prepared and submitted to the City of Boise such reports as may be required for the issuance of the said permit including but not necessarily limited to (a) a geotechnical report analyzing the soils and subsurface conditions of the Building Lot and containing such engineering and design information as may be required to insure that all improvements to be constructed on the Building Lot, including but not limited to foundations, driveways, retaining walls and other appropriate structures have been designed to fit the site specific conditions of each individual Building Lot and to insure that the engineering design complies with the goal of minimizing grading and filling on each Building Lot and (b) a hydrological report analyzing the hydrological and drainage conditions on the Building Lot and containing such engineering and design data as may be necessary to insure that there shall be no interference with the established Private Drainage System and that Building Lot drainage is properly designed and connected to the Private Drainage System. Any required geotechnical and/or hydrological reports shall be prepared and submitted by a professional engineer registered in the State of Idaho having a degree emphasizing, or being experienced or knowledgeable in the practice of, geotechnical engineering, soil mechanics, and/or hydrology, as the case may be. The Architectural Committee is hereby empowered, but not required, to adopt such regulations and guidelines as it shall deem appropriate, consistent with the provisions of the Declaration and this Supplemental Declaration, with regard to the matters set forth in this paragraph. In no event, however, shall the Declarant or the Architectural Committee be liable for the accuracy, sufficiency, validity or quality of the analysis and specifications

contained within the said plans and reports, and shall be indemnified and held harmless from any claim arising therefrom.

The Declarant has retained certain engineers, geological engineers, hydrological engineers and other professional consultants as it has deemed necessary to design Northridge No. 5 Subdivision. The engineering and other design data, drawings, reports, and any other project related data are not intended by the Declarant or its consultants to be used for any purposes not authorized by them. The unauthorized use or reference to such engineering and design data, drawings, reports and other project-related data shall be the responsibility of the Owner and its consultants. The Declarant and its consultants shall be indemnified and held harmless from any claims arising out of the misuse or misinterpretation of the said project-related data. The Declarant does not provide a warranty or guaranty that any Building Lot is or will be suitable for the Owner's intended or proposed design and development, the determination of which shall be the sole responsibility of the Owner and its consultants.

ARTICLE V: NORTHRIDGE NO. 5 HOMEOWNERS' ASSOCIATION, INC.

5.1 Organization of Northridge No. 5 Subdivision Homeowners' Association, Inc. Northridge No. 5 Subdivision Homeowners' Association, Inc. (the "Association") shall be initially organized by Grantor as an Idaho non-profit corporation under the provisions of the Idaho Code relating to general non-profit corporations and shall be charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws and this Declaration. Neither the Articles nor the Bylaws shall be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

5.2 Membership. Each Owner, by virtue of being an Owner and for so long as such ownership is maintained, shall be a Member of the Association. The memberships in the Association shall not be transferred, pledged, assigned or alienated in any way except upon the transfer of Owner's title in such Owner's Building Lot and then only to the transferee of such title. Any attempt to make a prohibited membership transfer shall be void and will not be reflected on the books of the Association.

5.3 Voting. Voting in the Association shall be carried out by Members who shall cast the votes attributable to the Building Lots which they own, or attributable to the Building Lots owned by Grantor. The number of votes any Member may cast on any issue is determined by the number of Building Lots which the Member, including Grantor, owns. When more than one person holds an interest in any Building Lot, all such persons shall be Members but shall share the votes attributable to the Building Lot. For voting purposes, the Association shall have two (2) classes of Members as described below:

5.3.1 Class A Members. Owners other than Grantor shall be known as "Class A Members." Each Class A Member shall be entitled to cast one (1) vote for each Building Lot owned by such Class A Member on the day of the vote.

5.3.2 Class B Members. Grantor shall be known as the "Class B Member," and shall be entitled to cast five (5) votes for each Building Lot owned by such Class B Member on the day of the vote. The Class B Member shall convert to a Class A Member on the happening of either of the following events, whichever occurs earlier:

(a) when all of the Building Lots have been sold to Owners other than Grantor; or

(b) twenty (20) years after the date this Declaration is recorded in the official records of Ada County, Idaho.

Fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter being put to a vote. When an Owner casts a vote, it will thereafter be presumed conclusively for all purposes that such Owner was acting with authority and consent of all joint Owners of the Building Lot(s) from which the vote derived. The right to vote may not be severed or separated from the ownership of the Building Lot to which it is appurtenant, except that any Owner may give a revocable proxy, or may assign such Owner's right to vote to a lessee, mortgagee, beneficiary or contract purchaser of the Building Lot concerned, for the term of the lease, mortgage, deed of trust or contract. Any sale, transfer or conveyance of such Building Lot to a new Owner shall operate automatically to transfer the appurtenant voting right to the Owner, subject to any assignment of the right to vote to a lessee, mortgagee, or beneficiary as provided herein.

5.4 Board of Directors and Officers. The affairs of the Association shall be conducted and managed by a Board of Directors ("Board") and such officers as the Board may elect or appoint, in accordance with the Articles and Bylaws, as the same may be amended from time to time. The Board of the Association shall be elected in accordance with the provisions set forth in the Association Bylaws.

5.5 Power and Duties of the Association.

5.5.1 Powers. The Association shall have all the powers of a corporation organized under the general corporation laws of the State of Idaho subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws, and this Declaration. The Association shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under Idaho law and under this Declaration, and the Articles and Bylaws,

and to do and perform any and all acts which may be necessary to, proper for, or incidental to the proper management and operation of the Common Area and the Association's other assets, including water rights when and if received from Grantor, and the performance of the other responsibilities herein assigned, including without limitation:

5.5.1.1 Assessments. The power to levy Assessments on any Owner or any portion of the Property and to force payment of such Assessments, all in accordance with the provisions of this Declaration.

5.5.1.2 Right of Enforcement. The power and authority from time to time in its own name, on its own behalf, or on behalf of any Owner who consents thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or the Articles or the Bylaws.

5.5.1.3 Emergency Powers. The power to enter upon any property (but not inside any building constructed thereon) in the event of any emergency involving illness or potential danger to life or property or when necessary in connection with any maintenance or construction for which the Association is responsible. Such entry shall be made only by authorized representatives of the Association and with as little inconvenience to the Owner as practicable, and any damage caused thereby shall be repaired by the Association.

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

5.5.1.4.1 Underground lines, cables, wires, conduits or other devices for the transmission of electricity or electronic signals-for lighting, heating, power, telephone, television or other purposes, and the above ground lighting stanchions, meters, and other facilities associated with the provisions of lighting and services; and

5.5.1.4.2 Public sewers, storm drains, water drains and pipes, water supply systems, sprinkling systems, heating and gas lines or pipes, and any similar public or quasi-public improvements or facilities; and

5.5.1.4.3 Mailboxes and sidewalk abutments around such mailboxes or any service facility, berm, fencing and landscaping abutting common areas, public

and private streets or land conveyed for any public or quasi-public purpose.

5.5.1.4.4 Garden plots for the use of the Owners subject to such terms, conditions, rules and regulations as the Board may determine are reasonable and necessary in connection therewith.

5.5.1.4.5 Fire prevention, suppression or fuel modification activities, including but not limited to livestock grazing subject to such terms, conditions, rules and regulations as the Board may determine are reasonable and necessary in connection therewith.

The right to grant such licenses, easements and rights-of-way are hereby expressly reserved to the Association and may be granted at any time prior to twenty-one (21) years after the death of the issue of the individuals executing this Declaration on behalf of Grantor who are in being as of the date hereof.

5.5.2 Duties. In addition to duties necessary and proper to carry out the power delegated to the Association by this Declaration and the Articles and Bylaws, without limiting the generality thereof, the Association or its agent, if any, shall have the authority and the obligation to conduct all business affairs of the Association and to perform, without limitation, each of the following duties:

5.5.2.1 Operation and Maintenance of Common Area. Except with respect to those portions thereof which have been leased or licensed to third parties, operate, maintain, and otherwise manage or provide for the operation, maintenance and management of the Common Area and any and all improvements thereon, including but not limited to fencing installed by Grantor or the Association. Maintenance, as used in this Article and elsewhere in this Declaration, shall include, without limitation, repair and replacement as needed, as well as such other duties, which may include irrigation, as the Board may determine necessary or appropriate. All maintenance shall be performed in a manner consistent with all applicable covenants.

5.5.2.2 Operation and Maintenance of Private Drainage System. Operate, maintain, repair and otherwise manage the roof drains and private drains as shown on the Grading, Sewer, and Drainage Plans for Northridge No. 5 Subdivision, sheets 1 through 9, (hereinafter referred to as the "Private Drainage System"), which system is generally located along the back and sides of Lots or within the private storm drain easements depicted on the plat. The Private Drainage System consists of small diversion embankments, interceptor ditches, pre-cast concrete catch basins, roof drain pipes and other similar facilities all of which are intended to capture storm water runoff and transport it to the public storm drain system to be

owned and maintained by the Ada County Highway District as more specifically described below. In furtherance of the Association's duties as set forth in this paragraph, the Association shall inspect or cause to be inspected the private drainage system on an annual basis and shall immediately clean, repair and maintain the system as may be required. The Association's annual inspection and maintenance requirements shall include, at a minimum, the following:

(a) Keeping inlet grates on pre-cast catch basins free from vegetation, debris and sediment;

(b) Keeping diversion embankments free from erosion and overgrown vegetation;

(c) Keeping interceptor ditches free from erosion, overgrown vegetation and debris or sediment;

(d) Keeping sediment and debris from accumulating in the bottoms of manholes and pre-cast catch basins;

(e) Keeping connections to private drains watertight so as to prevent entry of foreign material;

(f) Keeping accumulations of sediment and debris from reducing pipe capacities;

(g) Preventing erosion of the natural channels with rip rap at outfalls; and

(h) Keeping all drainpipes buried so as not to be exposed to sun, weather or fire hazards.

5.5.2.3 Operation and Maintenance of Storm Water Retention Ponds. Provide all "light" maintenance of the storm water retention pond located on Lot 7, Block 3, Northridge No. 5 Subdivision, as specified in the maintenance manual, having due regard for the wildlife and habitat functions to be served by the retention ponds, which said maintenance shall include, but not be limited to the following:

(a) Periodic inspection of the storm water retention ponds on at least a monthly basis;

(b) Proper maintenance, including but not limited to mowing, trimming, fertilizing and irrigating, all landscaping, whether manicured or naturalized, located on the said Lot 7, Block 3;

(c) Collection and disposal of any and all trash and debris found in and around the storm water retention ponds;

(d) Inspection and repair by a licensed earthwork contractor of any water spots, water entering the pond from adjacent lots, rodent holes and bank erosion found on the banks of the ponds.

The Association shall not be dissolved or relieved of its responsibility to maintain the storm water retention ponds without the prior written approval of the Ada County Highway District.

5.5.2.3.1 Association's Failure to Maintain; Ada County Highway District Remedies. In the event that the Ada County Highway District (ACHD) determines, in its sole discretion, that the Association is not adequately maintaining the retention ponds, then ACHD shall be permitted to do so, provided, however, that before undertaking maintenance of the said storm water retention ponds, ACHD shall provide thirty (30) days advance written notice of its intention to do so and by which said notice shall specifically identify the maintenance which is then required. In the event the Association shall fail to complete the items of maintenance as specified in the said notice within the thirty (30) day period provided, then in that event ACHD may begin to undertake such maintenance. ACHD is hereby granted an irrevocable license and easement to enter upon any portion of the Common Area to perform such maintenance and inspection of the storm water retention ponds. Should ACHD engage in maintenance of the storm water retention ponds after having provided the required notice to the Association and having provided the Association an opportunity to undertake said maintenance, ACHD shall first bill the Association for the cost of the said maintenance and, if such bill shall not be paid within sixty (60) days, then ACHD shall be entitled and empowered to file a taxable lien against all lots within the subdivision with the power of sale as to each and every lot in order to secure any and all assessments levied against all lots in the subdivision pursuant to this Declaration as if the said maintenance had been performed by the Association, together with interest at the rate which accrues on judgments thereon and all costs of collection which may be paid or incurred by ACHD. The Association, and all Lot Owners by accepting title to a lot, agree that all Lot Owners within the subdivision are benefited property owners of such maintenance.

5.5.2.3.2 Heavy Maintenance of Storm Water Retention Ponds. The Ada County Highway District shall perform the "heavy" maintenance of the storm water retention pond, which said "heavy" maintenance consists of periodically inspecting the retention pond facility to insure it is functioning properly, cleaning out the facility piping, and mucking out the facility when the sediment level exceeds the designed storage level. The Ada County Highway District is hereby granted an irrevocable license and easement to enter upon any portion of the Common Area to perform its inspection and maintenance obligations as described herein. Notwithstanding anything contained hereinabove to the

contrary, the Ada County Highway District shall own and be responsible for the operation, maintenance and repair of all storm drains located within the public right-of-way and within any Ada County Highway District storm drain easements as depicted on the Plat.

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

5.5.2.5 Water and Other Utilities. Acquire, provide and/or pay for necessary services for maintenance of the Common Area, and to manage for the benefit of the Association all water rights and rights to receive water held by the Association, whether such rights are evidenced by license, permit, claim, stock ownership or otherwise.

5.5.2.6 Insurance. Obtain insurance from reputable insurance companies authorized to do business in the State of Idaho, and maintain in effect any insurance policy the Board deems necessary or advisable, including, without limitation the following policies of insurance:

5.5.2.6.1 Fire insurance including those risks embraced by coverage of the type known as the broad form "All Risk" or special extended coverage endorsement on a blanket agreed amount basis for the full insurable replacement value of all Improvements, equipment and fixtures located within the Common Area.

5.5.2.6.2 Comprehensive public liability insurance insuring the Board, the Association, Grantor and the individual grantees and agents and employees of each of the foregoing against any liability incident to the ownership and/or use of the Common Area. Limits of liability of such coverage shall be as follows: Not less than One Million Dollars ($1,000,000) per person and One Million Dollars ($1,000,000) per occurrence with respect to personal injury or death, and One Million Dollars ($1,000,000) per occurrence with respect to property damage.

5.5.2.6.3 Such other insurance, including motor vehicle insurance and Workers' Compensation insurance, to the extent necessary to comply with all applicable laws, and indemnity, faithful performance, fidelity and other bonds as the Board

shall deem necessary or required to carry out the Association functions or to insure the Association against any loss from malfeasance or dishonesty of any employee or other person charged with the management or possession of any Association funds or other property.

The Association shall be deemed trustee of the interests of all Owners in connection with any insurance proceeds paid to the Association under such policies, and shall have full power to receive such Owner's interests in such proceeds and to deal therewith. Insurance premiums for the above insurance coverage shall be deemed a common expense to be included in the Regular Assessments levied by the Association. Each Owner may obtain insurance at such Owner's own expense providing coverage upon such Owner's Building Lot, such Owner's personal property, for such Owner's personal liability, and covering such other risks as such Owner 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. Proceeds of such insurance claims shall be paid to the owner of the Building Lot and/or the mortgagee in connection with such Building Lot.

5.5.2.7 Enforcement of Restrictions and Rules. Perform such other acts, whether or not expressly authorized by this Declaration, as may be reasonably advisable or necessary to enforce any of the provisions of the Declaration, or of the Articles or Bylaws, including, without limitation, the recordation of any claim of lien with the Ada County Recorder, as more fully provided herein.

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

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

5.7.1 Budget/Projected Operating Statement. A projected operating statement or budget, for each fiscal year shall be distributed not less than sixty (60) days before the beginning of each fiscal year. The operating statement projected for the ensuing fiscal year shall include a schedule of Assessments received and receivable, identified by the Building Lot number and the name of the person or entity assigned.

5.7.2 Balance Sheet. Within thirty (30) days after the close of each fiscal year, the Association shall cause to be prepared a balance sheet as of the last day of the Association's fiscal year, and will deliver such Balance Sheet to each Owner within ninety (90) days after the end of each fiscal year.

5.7.3 Operating Statement. Within thirty (30) days after the close of each fiscal year, the Association shall cause to be prepared an annual operating statement reflecting the income and expenditures of the Association. Copies of the operating statement shall be distributed to each Member within ninety (90) days after the end of each fiscal year.

5.7.4 Audit. The Association will provide an audited statement for the preceding fiscal year if the holder, insurer or guarantor of any first mortgage that is secured by a Building Lot submits a written request for it; such holder, insurer or guarantor shall pay the reasonable cost of such audit. A copy of each audit shall be delivered to each Member within thirty (30) days after the completion of such audit.

5.8 Meetings of Association. Each year the Association shall hold at least one meeting of the Members, according to the schedule for such meetings established by the Bylaws. Only Members shall be entitled to attend Association meetings, and all other persons may be excluded. Notice of all Association meetings, regular or special, shall be given by regular mail to all Members, and any person in possession of a Building Lot, not less than ten (10) days nor more than thirty (30) days before the meeting and shall set forth the place, date and hour of the meeting and the nature of the business to be conducted. All meetings shall be held within the Property or as close thereto as practical at a reasonable place selected by the Board. The presence at any meeting in person of the Class B Member where there is such a Member, and of the Class A Members representing Owners holding at least thirty percent (30%) of the total votes of all Class A Members, shall constitute a quorum. If any meeting cannot be held because a quorum is not present, the Members present may adjourn the meeting to a time not less than ten (10) days nor more than thirty (30) days from the time the original meeting was scheduled. At any such meeting properly called, the presence of any Member shall constitute a quorum.

ARTICLE VI: ARCHITECTURAL CONTROL

6.1 Architectural Committee. In order to protect the quality and value of all homes built on the Property, and for the continued protection of the Owners thereof, an Architectural Committee is hereby established consisting of three (3) or more members to be appointed by the Grantor for so long as Grantor has any interest in the Property. At such time as Grantor has no interest in the Property, the Board of Directors of the Association shall appoint members to the Architectural Committee at each annual meeting of the Board. A two-thirds (2/3) vote of the Architectural Committee is required for approval.

6.2 Approval by Committee. No building, fence, wall, patio cover, window awning or other Improvement shall be commenced, erected, or maintained upon any Building Lot, Common Area or other portion of the Property, nor shall any exterior addition to or change or alteration there in be made, until the plans and specifications showing the nature, kind, shape, height, materials, location of the same, color and such other detail as the Architectural Committee may require shall have been submitted to and approved in writing by the Architectural Committee. In the event the Architectural Committee fails to approve or disapprove such plans, specifications and location within forty-five (45) days after said plans and specifications have been submitted to it in such form as may be required by the Architectural Committee, in writing, approval will not be required, and this Article will be deemed to have been fully complied with.

6.3 Submissions. Requests for approval of the Architectural Control Committee shall consist of such documents and other materials as may be reasonably requested by the Architectural Control Committee including, without limitation, the following:

A. Site Plan. A site plan showing the location of buildings and all other structures and improvements, including fences and walls on the Lot, Lot drainage and all setbacks and other pertinent information related to the improvements.

B. Building Plan. A building plan which shall consist of preliminary or final blueprints, elevation drawings of the north, south, east, and west sides, detailed exterior specifications for each building which shall indicate, by sample, if required by the Architectural Committee, all exterior colors, material and finishes, including roof, to be used. Garage, accessory and outbuildings to be located on a Building Lot shall be architecturally and visually compatible and harmonious with the principal building on the Building Lot as to style and exterior colors.

C. Landscape Plan. A landscape plan for that portion of the Building Lot to be landscaped which shall show the location, type and size of trees, plants, ground

cover, shrubs, berms and mounding, grading, drainage, sprinkler system, fences, free standing exterior lights, driveways, parking areas and walk ways.

6.4 Rules and Regulations. The Architectural Committee is hereby empowered to adopt rules to govern its procedures, including such rules as the Architectural Committee may deem appropriate with regard to the right of concerned parties to be heard on any matter before the Architectural Committee. The Architectural Committee is further hereby empowered to adopt such regulations and guidelines as it shall deem appropriate, consistent with the provisions of this Declaration, with regard to matters subject to the Architectural Committee's approval, including matters of design, materials and aesthetic interest. Such rules, after adoption, shall be of the same force and effect as if set forth in full herein.

6.5 Variances. The Architectural Committee may authorize variances from compliance with the requirements of any conditions and restrictions contained in this Declaration or any rules and regulations adopted hereunder when, in the sole discretion of the Architectural Committee, circumstances such as topography, natural obstructions, aesthetics or environmental considerations or hardship may so require. Such variances must be evidenced in a writing signed by a majority of the members of the Architectural Committee. If a variance is granted as provided herein, no violation of this Declaration or any rules and regulation adopted hereunder shall be deemed to have occurred with respect to the matter for which the variance is granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration or any rules or regulations adopted hereunder for any purpose except as to the particular subject matter of the variance thereof and the specific lot covered thereby. The Architectural Committee shall have the right to consider and grant a variance as herein provided either with or without notice to other Owners.

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

6.7 Non-Liability of Architectural Committee Members. Neither the Architectural Committee nor any member thereof, shall be liable to any Owner for any loss, damage or injury arising out of or in any way connected with the performance of the Architectural Committee's duties hereunder, unless due to the willful misconduct or bad faith of the Architectural Committee. The Architectural Committee shall take into consideration the

aesthetic aspects of the architectural designs, placement of building, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of any plan or design from the standpoint of structural safety or sufficiency or conformance with building or other codes.

ARTICLE VII: BUILDING RESTRICTIONS AND SOLAR COVENANTS, CONDITIONS AND RESTRICTIONS

7.1. 15% Area. No structures may be constructed in any area below the "top of the bank" designated on the plat which is an area containing a 15% or greater slope (hereinafter referred to as "15% Area") with further approval from City of Boise. No fill may be placed or cuts made in the "15% Area") without further approvals by Boise City.

7.2. Building Restrictions. No buildings shall be erected, altered, placed, or permitted to remain on any Lot other than one (1) detached single family dwelling. Each single family dwelling unit on all Lots, excluding Lot 9, must contain a minimum of 2,200 square feet for a single level, and a minimum of 2,500 square feet multi-level of interior living space, excluding garages, patios, porches, carports, decks, and other outside appurtenances. The area of interior living space for Lot 9, excluding garages, patios, porches, carports, decks, and other outside appurtenances, must be a minimum of 1,850 square feet. The height of a Dwelling Unit shall not exceed 35 feet. Each Dwelling Unit shall have an attached garage with a minimum of two (2) car stall, and a maximum of six (6) car stalls. No building or structure, or pre-manufactured home, shall be moved onto the Real Property from any place outside a Lot. All Dwelling Units shall be of frame, stone, brick, concrete, or block construction, and if other than brick or stone, shall be finished and painted. All design, construction, material selection, and color selection is subject to approval of the Architectural Control Committee as set forth in the next successive Article.

7.3. Solar Covenants, Restrictions and Conditions.

A. Solar Access Definitions.

(1) Exempt Tree: Any preexisting vegetation as defined in Article IX, Section 3 B(2) or any vegetation included on the list of solar friendly vegetation kept by the City of Boise's Public Works and Community Planning and Development Departments.

(2) Front Lot Line: The line represented by the connection of the most distant corners of a lot, including flag lots, where said corners are in common with the boundary of a public or private road. For corner lots, the front lot line is designated on the plat.

(3) North Slope: The gradient, in percent slope, from the average finished grade of the solar lot line of a solar lot. The slope must be downward or decreasing in elevation from the south to north.

(4) Restricted Vegetation: A tree or other vegetation which is either evergreen, or if deciduous, tends to retain its leaves late in the fall and/or drop them late in the spring, or has a dense branching pattern which generally tends to block a high level of the sun's rays during the heating season. Refer to the list of "solar friendly" trees on file with the Boise City Public Works and Community Planning and Development Departments.

(5) Shade: That portion of the shadow cast by the shade point of a structure or vegetation which exceeds the 11.5 foot fence at the solar lot line at solar noon, January 15.

(6) Shade Point: That part of a structure, tree or other object, on a shade restricted lot, which casts the longest shadow (the most northerly shadow) when the sun is due south on January 21st at an altitude of twenty-six (26) degrees above the horizon, except a shadow caused by a narrow object such as a chimney, antenna, utility pole, wire, etc.

(7) Shade Point Height: The vertical distance or height measured from the average elevation at the solar lot line to the shade point. If the shade point is located at the north end of a ridgeline or a structure oriented within 45 degrees of a geodetic north-south line, the shade point height computed according to the preceding sentence may be reduced by 3 feet. If a structure has a roof oriented within 45 degrees of a geodetic east-west line with a pitch which is flatter than 6 feet (vertical) in 12 feet (horizontal), the shade point will be the cave of the roof. If such a roof has a pitch which is 6 feet in 12 feet or steeper, the shade point will be the peak of the roof.

(8) Shade Restricted Lot: Any lot within the subdivision that is southerly of and adjacent to a solar lot. These lots have some restriction on vegetation types and structure height.

(9) Solar Friendly Vegetation: A tree or other vegetation which is included on the solar friendly vegetation list kept by the City of Boise's Public Works and Community Planning and Development Departments.

(10) Solar Lot: A lot which has the following characteristics:

(a) The front lot line is oriented within thirty (30) degrees of a geodetic east/west bearing;

(b) The lot to the immediate south has a north slope of ten (10) percent or less;

(c) Is intended for the construction of an above ground inhabited structure.

(11) Solar Lot Line: The most southerly boundary of a solar lot: the line created by connecting the most distant southerly corners of the solar lot.

(12) Solar Setbacks: The minimum distance, measured perpendicular in a southerly direction, from the center of the solar lot line to the shade point of a structure or to restricted vegetation based upon its height at maturity on the shade restricted lot.

B. Solar Access Covenants, Conditions and Restrictions:

(1) Shade Restriction: Each lot within the subdivision which is classified as a Shade Restricted Lot shall have the following restriction: Any structure or restricted vegetation (solar unfriendly) cannot cast a shadow higher than an imaginary fence 11.5 feet above the solar lot line on solar noon of January 21st when the sun is at an angle of 26 degrees above the horizon. This sun angle at noon on January 21 causes structures, vegetation, and other objects to cast a shadow twice as long as their height. The height of the shade point of a structure on the shade restricted lot is limited to 19 feet at the 15 foot rear yard zoning set back in order that the 11.5 foot high "solar fence" at the north property line of the Shade Restricted Lot is not exceeded. These standards assure that a structure built to the 15 foot rear yard zoning setback, on the solar lot located to the north, will not be shaded more than 4 feet above grade on its south wall on January 21 at solar noon.

(2) Pre-Existing Vegetation: Restricted vegetation (solar unfriendly), which existed when the subdivision was platted is exempt from the provisions of these covenants, conditions and restrictions. Any lot which would be shaded beyond the allowed shade limit by such vegetation shall not be classified as a Solar Lot.

(3) Solar Exemption: Any lot with an average finished grade slope along the north-south lot dimension greater than ten (10) percent shall be exempt from the terms and conditions of these covenants, conditions and restrictions.

(4) Solar Setbacks: Each separate structure and item of restricted vegetation shall have a solar setback dependent on and calculated by its shade point height. All shade restricted lots shall have the following solar setback: Solar Setback (in feet) = [Shade Point Height (in feet) - 11.5'] x 2. Table 1 below shows a few examples of solar setbacks for given shade point heights:

TABLE 1

SOLAR SETBACKS REQUIRED FOR A GIVEN SHADE POINT HEIGHT

Shade Point Height	Solar Setback
10'	0'
15'	7
20'	17'
25'	27'
30'	37'

(5) Solar Friendly Vegetation: Certain vegetation is considered "solar friendly" and is not restricted in regards to location or individual lots. Such vegetation is deciduous, dropping its leaves during early fall and regaining them during late spring. Such vegetation also has sparse branching which allows a high level of sunlight to penetrate through. This growth cycle produces shading during summer but allows sun to penetrate during winter. A list of acceptable friendly trees is maintained by the Boise City Public works and the Community Planning and Development Department.

C. Solar Access Rights, Duties and Responsibilities:

(1) Solar Access Rights: The owner(s) of solar lots shall have a right to unobstructed solar access in accordance with these covenants, conditions and restrictions.

(2) Solar Access Denied: The owner(s) of any lot shall not build, install, or otherwise allow a structure or non-solar friendly tree on that lot to cast more shade at their solar lot line than permitted under these solar access covenants, restrictions and conditions.

ARTICLE VIII: COMMON AREA

8.1 Designation of Common Area. Grantor shall designate and reserve the Common Area in this Declaration, Supplemental Declarations, and/or recorded Plats, deeds or other instruments and/or as otherwise provided herein.

8.2 Damages. Each Owner shall be fully liable for any damage to the Common Area which may be sustained by reason of the negligence or willful misconduct of the Owner, such Owner's resident tenant or contract purchaser, or such Owner's family and guests, both minor and adult. In the case of joint ownership of a Building Lot, the liability of such Owners shall be joint and several. The cost of correcting such damage shall be a Limited

Assessment against the Building Lot and may be collected as provided herein for the collection of other Assessments. No Owner shall be liable for any amounts greater than is legally allowable under Idaho law.

8.3 Association's Responsibility to Maintain Common Area. Except with respect to such portions thereof which have been leased and/or licensed to others, the Association shall maintain and keep in good repair the Common Area, which shall include, but need not be limited to:

(a) all landscaping and other flora, parks, fences, signs, structures, and improvements, including any private streets, bike and pedestrian pathways/trails, and drainage or storm water retention facilities situated upon the Common Area;

(b) such portions of any additional property included within any Common Area as may be dictated by this Declaration, any Supplemental Declaration, or any contract or agreement for maintenance thereof entered into by the Association; and

(c) any property and facilities owned by Grantor and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, such property and facilities to be identified by written notice from Grantor to the Association and to remain a part of the Common Area and be maintained by the Association until such time as Grantor revokes such privilege of use and enjoyment by written notice to the Association.

There are hereby reserved to the Association easements over the Property as necessary to enable the Association to fulfill such responsibilities. The Association shall maintain the facilities and equipment within the Common Area in continuous operation, except for reasonable periods as necessary to perform required maintenance or repairs.

The Association may maintain other property which it does not own, including, without limitation, publicly owned property, conservation easements held by nonprofit entities, and other property dedicated to public use, if the Board determines that such maintenance is necessary or desirable.

Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Common Area shall be a common expense to be allocated among all Building Lots in the manner of and as a part of the Regular and/or Special Assessment(s), without prejudice to the right of the Association to seek reimbursement from the Owner(s) of, or other persons responsible for, certain portions of the Common Area pursuant to this Declaration, other recorded covenants or agreements with the owner(s) thereof.

8.4 Standard of Performance. Maintenance, as used in this Article and this Declaration, shall include, without limitation, repair and replacement as needed, as well as such other duties, which may include irrigation, as the Board may determine necessary or appropriate. All maintenance shall be performed in a manner consistent with all applicable covenants.

Notwithstanding anything to the contrary contained herein, the Association, and/or an Owner shall not be liable for property damage or personal injury occurring on, or arising out of the condition of, property which it does not own unless and only to the extent that it has been negligent in the performance of its maintenance responsibilities.

ARTICLE IX: ASSESSMENTS

9.1 Covenants to Pay Assessments. By acceptance of a deed to any Building Lot, each Owner hereby covenants and agrees to pay when due all Assessments or charges made by the Association, including all Regular, Special and Limited Assessments and charges made against such Owner pursuant to the provisions of this Declaration or other applicable instrument.

9.1.1 Assessment Constitutes Lien. Such Assessments and charges together with interest, costs and reasonable attorney fees which may be incurred in collecting the same, shall be a charge on the land and shall be a continuing lien upon the Building Lot against which each such Assessment or charge is made.

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

9.2 Regular Assessments. All Owners, including Grantor, are obligated to pay Regular Assessments to the treasurer of the Association on a schedule of payments established by the Board.

9.2.1 Purpose of Regular Assessments. The proceeds from Regular Assessments are to be used to pay for all costs and expenses incurred by the Association, including legal and attorney fees and other professional fees, for the conduct of its affairs, including without limitation the costs and expenses of construction, improvement, protection, maintenance, repair, management and operation of the Common Area, including all Improvements located on such areas owned and/or managed and maintained by the Association, and an amount allocated to an adequate reserve fund

to be used for repairs, replacement, maintenance and improvement of those elements of the Common Area, or other property of the Association that must be replaced and maintained on a regular basis (collectively "Expenses").

9.2.2 Computation of Regular Assessments. The Association shall compute the amount of its Expenses on an annual basis. The Board shall compute the amount of Regular Assessments owed beginning the first day of the third month following the month in which the closing of the first sale of a Building Lot occurred in Northridge No. 5 Subdivision for the purposes of the Association's Regular Assessment ("Initiation Date"). Thereafter the computation of Regular Assessments shall take place not less than thirty (30) nor more than sixty (60) days before the beginning of each fiscal year of the Association. The computation of the Regular Assessment for the period from the Initiation Date until the beginning of the next fiscal year shall be adjusted by an amount which fairly reflects the fact that such period was less than one year.

9.2.3 Amounts Paid by Owners. The Board can require, in its discretion or as provided in the Articles or Bylaws, payment of Regular Assessments in monthly, quarterly, semi-annual or annual installments. The Regular Assessment to be paid by any particular Owner, including Grantor, for any given fiscal year shall be computed by multiplying the Association's total advance estimate of Expenses by the fraction produced by dividing the Building Lots attributable to the Owner by the total number of Building Lots in the Property.

9.3 Special Assessments.

9.3.1 Purpose and Procedure. In the event that the Board shall determine that its Regular Assessment for a given calendar year is or will be inadequate to meet the Expenses of the Association for any reason, including but not limited to costs of construction, reconstruction, unexpected repairs or replacement of capital improvements upon the Common Area, attorney fees and/or litigation costs, other professional fees, or for any other reason, the Board thereof shall determine the approximate amount necessary to defray such Expenses and levy a Special Assessment against the portions of the Property within its jurisdiction which shall be computed in the same manner as Regular Assessments. No Special Assessment shall be levied which exceeds twenty percent (20%) of the budgeted gross Expenses of the Association for that fiscal year, without the vote or written assent of the Owners representing a majority of the votes of the Members of the Association. The Board shall, in its discretion, determine the schedule under which such Special Assessment will be paid.

9.3.2 Consistent Basis of Assessment. Every Special Assessment levied by and for the Association shall be levied and paid upon the same basis as that prescribed for the

levying and payment of Regular Assessments for such Association.

9.4 Limited Assessments. Notwithstanding the above provisions with respect to Regular and Special Assessments, a Board may levy a Limited Assessment against a Member as a remedy to reimburse the Association for costs incurred in bringing the Member and/or such Member's Building Lot into compliance with the provisions of the governing instruments for Northridge No. 5 Subdivision.

9.5 Uniform Rate of Assessment. Unless otherwise specifically provided herein, Regular and Special Assessments shall be fixed at a uniform rate per Building Lot for all Members of the Association.

9.6 Assessment Period. Unless otherwise provided in the Articles or Bylaws, the Assessment period shall commence on January 1 of each year and terminate December 31 of each year. The first Assessment shall be pro-rated according to the number of months remaining in the fiscal year and shall be payable in equal monthly or quarterly installments, as determined by the Board, as per paragraph 9.2.3 above.

9.7 Notice and Assessment Due Date. Ten (10) days prior written notice of Regular and Special Assessments shall be sent to the Owner of every Building Lot subject thereto, and to any person in possession of such Building Lot. The due dates for installment payments of Regular Assessments and Special Assessments shall be established by the Board. Each installment of the Regular Assessment or Special Assessment shall become delinquent if not paid within ten (10) days after the due date thereof. There shall accrue with each delinquent installment payment a late charge equal to five percent (5%) of the delinquent installment. In addition, each installment payment which is delinquent for more than twenty (20) days shall accrue interest at ten percent (10%) per annum calculated the date of delinquency to and including the date full payment is received by the Association. The Association may bring an action against the delinquent Owner and may foreclose the lien against such Owner's Building Lot as more fully provided herein. Each Owner is personally liable for Assessments, together with all interest, costs and attorney fees, and no Owner shall be exempt from such liability by a waiver of the use and enjoyment of the Common Area, or by lease or abandonment of such Owner's Building Lot.

9.8 Estoppel Certificate. The Association, upon at least twenty (20) days prior written request, shall execute, acknowledge and deliver to the party making such request, a statement in writing stating whether or not, to the knowledge of the Association, a particular Owner is in default under the provisions of this Declaration, and further stating the dates to which any Assessments have been paid by the Owner. Any such certificate delivered pursuant to this paragraph 9.8 may be relied upon by any prospective

purchaser or mortgagee of the Owner's Building Lot. Reliance on such Certificate may not extend to any default as to which the signor shall have had no actual knowledge.

9.9 Special Notice and Quorum Requirements. Notwithstanding anything to the contrary contained in either the Bylaws or the Articles, written notice of any meeting called for the purpose of levying a Special Assessment, or for the purpose of obtaining a membership vote in connection with an increase in the Regular Assessment, shall be sent to all Members of the Association and to any person in possession of a Building Lot, not less than fifteen (15) days nor more than thirty (30) days before such meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of the total votes of the Association shall constitute a quorum. If such quorum is not present, subsequent meetings may be called subject to the same notice requirement, and the required quorum at the subsequent meetings shall be fifty percent (50%) of the quorum required at the preceding meeting. No such subsequent meeting shall be held more than thirty (30) days following the preceding meeting.

ARTICLE X: ENFORCEMENT OF ASSESSMENTS; LIENS

10.1 Right to Enforce. The Association has the right to collect and enforce its Assessments pursuant to the provisions hereof. Each Owner of a Building Lot, upon becoming an Owner of such Building Lot, shall be deemed to covenant and agree to the enforcement of all Assessments in the manner herein specified. In the event an attorney or attorneys are employed for the collection of any Assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, each Owner agrees to pay reasonable attorney fees in addition to any other relief or remedy obtained against such Owner. The Board or its authorized representative may enforce the obligations of the Owners to pay such Assessments by commencement and maintenance of a suit at law or in equity, or the board may exercise the power of foreclosure and sale pursuant to paragraph 9.3 to enforce the liens created hereby. A suit to recover a money judgment for an unpaid Assessment shall be maintainable without foreclosing or waiving the lien hereinafter provided.

10.2 Assessment Liens.

10.2.1 Creation. There is hereby created a claim of lien with power of sale on each and every Building Lot to secure payment of any and all Assessments levied against such Building Lot pursuant to this Declaration together with interest thereon at the maximum rate permitted by law and all costs of collection which may be paid or incurred by the Association making the Assessment in connection therewith, including reasonable attorney fees. All sums assessed in accordance with the

provisions of this Declaration shall constitute a lien on such respective Building Lots upon recordation of a claim of lien with the Ada County Recorder. Such lien shall be prior and superior to all other liens or claims created subsequent to the recordation of the notice of delinquency and claim of lien except for tax liens for real property taxes on any Building Lot and assessments on any Building Lot in favor of any municipal or other governmental assessing body which, by law, would be superior thereto.

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

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

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

10.5 Subordination to Certain Trust Deeds. The lien for the Assessments provided for herein in connection with a given Building Lot shall not be subordinate to the lien of any deed of trust or mortgage except the lien of a first deed of trust or first mortgage given and

made in good faith and for value that is of record as an encumbrance against such Building Lot prior to the recordation of a claim of lien for the Assessments. Except as expressly provided in paragraph 10.6 with respect to a first mortgagee who acquires title to a Building Lot, the sale or transfer of any Building Lot shall not affect the Assessment lien provided for herein, nor the creation thereof by the recordation of a claim of lien, on account of the Assessments becoming due whether before, on, or after date of such sale or transfer, nor shall such sale or transfer diminish or defeat the personal obligation of any Owner for delinquent Assessments as provided for in this Declaration.

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

ARTICLE XI: EASEMENTS

11.1 Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment as between each Building Lot and such portion or portions of the Common Area adjacent thereto or as between adjacent Building Lots due to the unwillful placement or settling or shifting of the Improvements. Easements of encroachment shall be valid only so long as they exist, and the rights and obligations of Owners shall not be altered in any way because of encroachments, settling or shifting of the Improvements; provided, however, that in no event shall a valid easement for encroachment occur due to the willful act or acts of an Owner.

11.2 Easements of Access. Grantor expressly reserves for the benefit of all the Property reciprocal easements of access, ingress and egress for all Owners to and from their respective Building Lots for installation and repair of utility services, for drainage of water over, across and upon adjacent Building Lots, and Common Area, resulting from the normal use of adjoining Building Lots or Common Area, and for necessary maintenance and repair of any Improvement including fencing, retaining walls, lighting facilities, mailboxes and sidewalk abutments, trees and landscaping. Such easements may be used by Grantor, and by all Owners, their guests, tenants and invitees, residing on or temporarily visiting the Property, for pedestrian walkways, vehicular access and such other purposes reasonably necessary for the use and enjoyment of a Building Lot or Common Area.

11.3 Drainage, Irrigation, and Utility Easements. Notwithstanding anything expressly or impliedly contained herein to the contrary, this Declaration shall be subject to all easements heretofore or hereafter granted by Grantor for the installation and

maintenance of utilities, irrigation and drainage facilities that are required for the development of the Property. In addition, Grantor hereby reserves for the benefit of the Association the right to grant additional easements and rights-of-way over the Property, as appropriate, to utility companies and public agencies as necessary or expedient for the proper development of the Property until close of escrow for the sale of the last Building Lot in the Property to a purchaser.

11.3.1 Improvement of Drainage, Irrigation and Utility Easement Areas. The Owners of Building Lots are hereby restricted and enjoined from constructing any Improvements upon any drainage, irrigation or utility easement areas as shown on the Plat or otherwise designated in any recorded document that would interfere with or prevent the easement from being used for such purpose; provided, however, that the Owner of such Building Lots, Grantor, Association or designated entity with regard to the landscaping easement described in this Article XI, shall be entitled to install and maintain landscaping on such easement areas, and also shall be entitled to build and maintain fencing on such easement areas subject to approval by the Architectural Committee, so long as the same would not interfere with or prevent the easement areas from being used for their intended purposes; provided, that any damage sustained to Improvements on the easement areas as a result of legitimate use of the easement area shall be the sole and exclusive obligation of the Owner of the Building Lot whose Improvements were so damaged.

11.4 Rights and Duties Concerning Utility Easements. The rights and duties of the Owners of the Building Lots within the Property with respect to utilities shall be governed by the following:

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

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

11.4.3 Any Building Lot containing a portion of, or sharing a common boundary with any ditch, lateral, or canal, except natural waterways, shall be tiled or fenced by the Owner of such Building Lot in accordance with the Ada County Code.

11.5 Additional Covenants and Easements. Grantor may unilaterally subject any portion of the Property to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating the Owners to pay the costs incurred by the Association through Assessments. Such additional covenants and easements shall be set forth in a Supplemental Declaration recorded either concurrent with or after the annexation of such property.

11.6 Easements to Serve Additional Property. Grantor hereby reserves for itself and its duly authorized agents, representatives, employees, successors, assigns, licensees, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the Property and any other lands owned by Grantor. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on the Property and other lands. Grantor and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of vehicular traffic connected with development on use of such Property and the other lands. Grantor further agrees that if the easement is exercised for permanent access to such other lands and the other lands or any portion thereof is not made subject to this Declaration, Grantor, its successor or assigns shall enter into a reasonable agreement with the Association to share the cost of maintenance of any access roadway serving the other lands.

11.7 Disputes as to Sharing of Costs. In the event of a dispute between Owners with respect to the repair or rebuilding of utility connections, or with respect to the sharing of the cost therefor, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Board which shall decide the dispute and, if appropriate, make an appropriate Assessment against any or all of the Owners involved on behalf of the prevailing Owner(s) which Assessment shall be collected and enforced in the manner provided by this Declaration for Limited Assessments.

ARTICLE XII: MISCELLANEOUS

12.1 Term. The easements created hereunder shall be perpetual, subject only to extinguishment by the holders of such easements as provided by law. The covenants, conditions, restrictions and equitable servitudes of this Declaration shall run until December 31, 2031, unless amended as herein provided. After December 31, 2031, such covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished by a written instrument

executed by Members holding at least three-fourths (3/4) of the voting power of the Association and such written instrument is recorded with the Ada County Recorder. Further provided that the Association shall not be dissolved without the prior written approval of Boise City, such consent not to be unreasonably withheld provided that a responsible successor organization shall agree to perform those maintenance responsibilities arising from applicable governmental requirements.

12.2 Amendment.

12.2.1 By Grantor. Except as provided in paragraph 12.2.3 below, until the recordation of the first deed to a Building Lot in the Property, the provisions of this Declaration may be amended, modified, clarified, supplemented, added to (collectively, "amendment") or terminated by Grantor by recordation of a written instrument setting forth such amendment or termination.

12.2.2 By Owners. Except where a greater percentage is required by express provision in this Declaration, any amendment to the provisions of this Declaration, other than this Article XII, shall be by an instrument in writing signed and acknowledged by the president and secretary of the Association certifying and attesting that such amendment has been approved by the vote or written consent of Owners representing more than fifty percent (50%) of the votes in the Association, and such amendment shall be effective upon its recordation with the Ada County Recorder. Any amendment to this Article XII shall require the vote or written consent of Members holding ninety percent (90%) of the voting power of the Association.

12.2.3 Effect of Amendment. Any amendment of this Declaration approved in the manner specified above shall be binding on and effective as to all Owners and their respective properties notwithstanding that such owners may not have voted for or consented to such amendment. Such amendments may add to and increase the covenants, conditions, restrictions and easements applicable to the property but shall not prohibit or unreasonably interfere with the allowed uses of such Owner's property which existed prior to the said amendment.

12.3 Mortgage Protection. Notwithstanding any other provision of this Declaration, no amendment of this Declaration shall operate or defeat or render invalid the rights of the beneficiary under any first deed of trust upon a Building Lot made in good faith and for value, and recorded prior to the recordation of such amendment, provided that after foreclosure of any such first deed of trust such Building Lot shall remain subject to this Declaration, as amended.

12.4 Notices. Any notices permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by

mail, it shall be deemed to have been delivered seventy-two (72) hours after the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association, as provided in this paragraph 12.4.

12.5 Enforcement and Non-Waiver.

12.5.1 Right of Enforcement. Except as otherwise provided herein, any Owner of any Building Lot, or the Association, shall have the right to enforce any or all of the provisions hereof against any property within the Property and Owners thereof.

12.5.2 Violations and Nuisances. The failure of any Owner of a Building Lot to comply with any provision hereof, or with any provision of the Articles or Bylaws of the Association, is hereby declared a nuisance and will give rise to a cause of action in Grantor, the Association or any Owner for recovery of damages or for negative or affirmative injunctive relief or both. However, any other provision to the contrary notwithstanding, only Grantor, the Association, the Board, or a duly authorized agent of any of them, may enforce by self-help any of the provisions hereof only if such self-help is preceded by reasonable notice to the Owner.

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

12.5.4 Remedies Cumulative. Each remedy provided herein is cumulative and not exclusive.

12.5.5 Non-Waiver. The failure to enforce any of the provisions herein at any item shall not constitute a waiver of the right to enforce any such provision.

12.6 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Property. This Declaration shall be construed and governed under the laws of the State of Idaho.

12.6.1 Restrictions Construed Together. All of the provisions hereof shall be liberally construed together to promote and effectuate the fundamental concepts of the development of the Property as set forth in the recitals of this Declaration.

12.6.2 Restrictions Severable. Notwithstanding the provisions of the foregoing paragraph 12.6.1, each of the provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision herein.

12.6.3 Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural shall include the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.

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

12.7 Successors and Assigns. All references herein to Grantor, Owners, the Association or person shall be construed to include all successors, assigns, partners and authorized agents of such Grantor, Owners, Association or person.

12.8 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 Common Area, or in the event that the Association fails to pay premiums due on insurance policies required by this Declaration, the lapse of which would jeopardize a mortgagee's security in any Building Lot, such mortgagee may pay said 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, any such mortgagee whose security in any Building Lot is jeopardized thereby may secure new comparable insurance coverage. In the event that such mortgagee makes payments allowed hereunder, it shall be entitled to prompt reimbursement from the Association.

IN WITNESS WHEREOF, Grantor has set their hands this *5* day of *December* 2001.

GRANTOR:
NORTHRIDGE NO. 5, L.L.P.

By *[signed: Scott G. Findlay]*
Scott G. Findlay

STATE OF IDAHO)
: ss.
County of Ada)

On the *5th* day of *Dec.* 2001, before me, the undersigned notary public in and for said State, personally appeared Scott G. Findlay, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that they executed the same.

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

[notary seal: Patsy M. Shelton, Notary Public, State of Idaho]

[signed: Patsy M. Shelton]
Notary Public for Idaho
Residing at *Boise, ID*
Commission expires: *1/26/05*

[Recorded: Ada County Recorder, J. David Navarro, 2002 Jan 16, 3:26 PM, Instrument No. 102006067; Recorded - Request of Northridge #5 ; Fee 6.00 ; Deputy [signature]]

Sheet 1 of 2

AFFIDAVIT AUTHORIZING CHANGE

NORTHRIDGE SUBDIVISION NO. 5, SITUATED IN THE W ½ OF THE E ½ OF SECTION 12, TOWNSHIP 3 NORTH, RANGE 2 EAST, BOISE MERIDIAN, BOISE CITY, ADA COUNTY, IDAHO.

STATE OF IDAHO)
COUNTY OF ADA)ss

I, Steven J. Frisbie, Professional Land Surveyor licensed by the State of Idaho, do hereby certify that the plat of Northridge Subdivision No. 5, located in the W ½ of Section 12, T.3 N., R.2 E., B.M., recorded at Book 83 of Plats, Pages 9126 through 9129 as Instrument No. 101129127 in the Ada County Recorder's office was made by me. I further certify that since the date of recording, a mistake has been discovered. This Affidavit is for the purpose of authorizing the Ada County Recorder to make a notation on said Plat correcting this mistake.

1.) On Sheet 1 of said Plat, a *NOTE* INCORRECTLY reads: "ON-STREET PARKING...ABUTTING LOT 1 THROUGH LOT 6, BLOCK 5."

The CORRECT note is as follows: "ON-STREET PARKING...ABUTTING LOT 1 THROUGH LOT 6, BLOCK 6."

2.) On Sheet 1 of said Plat, an *EASEMENTS* Note INCORRECTLY reads: "LOT 1, BLOCK 5, HAS A TEN (10) FOOT WIDE EASEMENT..."

The CORRECT note is as follows: "LOT 1, BLOCK 6, HAS A TEN (10) FOOT WIDE EASEMENT..."

3.) On Sheet 1 of said Plat, an *EASEMENTS* Note INCORRECTLY reads: "LOT 2, BLOCK 5, HAS A TEN (10) FOOT WIDE NORTHRIDGE SUBDIVISION NO. 5 HOMEOWNER'S ASSOCIATION EASEMENT ALONG THE LINE COMMON TO LOT 2 AND LOT 3, BLOCK 5 FOR ROOF STORM DRAINAGE PURPOSES AS SHOWN."

The CORRECT note is as follows: "LOT 2, BLOCK 6, HAS A TEN (10) FOOT WIDE NORTHRIDGE SUBDIVISION NO. 5 HOMEOWNER'S ASSOCIATION EASEMENT ALONG THE LINE COMMON TO LOT 2 AND LOT 3, BLOCK 6 FOR ROOF STORM DRAINAGE PURPOSES AS SHOWN."

4.) On Sheet 1 of said Plat, an *EASEMENTS* Note INCORRECTLY reads: "LOT 3 AND LOT 4. BLOCK 5, HAVE A TEN(10) FOOT WIDE EASEMENT..."

The CORRECT note is as follows: "LOT 3 AND LOT 4, BLOCK 6, HAVE A TEN(10 FOOT WIDE EASEMENT..."

Sheet 2 of 2

AFFIDAVIT AUTHORIZING CHANGE

[surveyor seal: Professional Land Surveyor, Registered 8961, State of Idaho, Steven J. Frisbie; signed and dated 1-7-02]

Steven J. Frisbie, P.L.S.

STATE OF IDAHO)
COUNTY OF ADA)ss

On this *7th* day of January, 2002, before me, the undersigned, a Notary Public in and for said State, personally appeared Steven J. Frisbie, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he 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 seal: Patsy M. Shelton, Notary Public, State of Idaho]

[signed: Patsy M. Shelton]
Notary Public for Idaho
Residing at Boise, Idaho
My Commission Expires:
1/26/05

Northridge Subdivision #5, L.L.C., an Idaho Limited Liability Corporation.

By: *[signed: Scott G. Findlay]*
Scott G. Findlay Member

STATE OF IDAHO)
COUNTY OF VALLEY)ss

On this *11* day of January, 2002, before me, the undersigned, a Notary Public in and for said State, personally appeared Scott G. Findlay, known or identified to me to be a member of the Limited Liability Company that executed the instrument, or the person who executed the instrument on behalf of said Limited Liability Company, and acknowledged to me that such Limited Liability Company 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 seal: Billie L. Walker, Notary Public, State of Idaho]

[signed: Billie L. Walker]

Notary Public for Idaho
Residing at McCall, Idaho
My Commission Expires:
1-18-2007