

# **WHISPERING PINES**

## **ANSWERS TO FREQUENTLY ASKED QUESTIONS**

**NOT** a complete Representation of the Subdivision Restrictions

Owner can camp 7 months out of each year (April Thru October).

Visitors can camp 60 days out of each year, not more than 14 days consecutively.

No modular homes or temporary structures shall be used as residences.

The Architectural Control Committee must approve all building plans.

All exterior components of home must be completed within 1 year after commencement of construction. Must build a garage within 1 year after construction of the residence.

House must be 1,500 sq. ft. if single storied, or 1,800 sq. ft. if two storied with a minimum of 1,200 sq. ft. on the main level.

Exteriors of buildings must be of natural wood, stone, stucco, high quality vinyl siding, or manufactured siding or similar products.

Owners may rent or lease their residence with a minimum rental period of 30 days.

Roads will be maintained by the Homeowners Association.

It is estimated that annual dues for the Association will be around \$300, mostly for road maintenance.

Trees may be removed to enhance views and to prep construction sites. Otherwise, the Architectural Control Committee must approve tree removal.

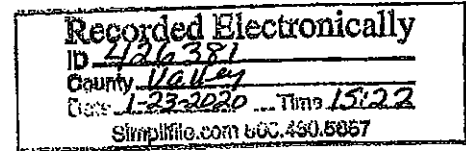
All vehicles and recreational toys must be screened from view.

The subdivision shall be served by cluster mailboxes. Each owner shall pay \$150 for the required mailboxes at the closing of the purchase of the lot.

Household pets okay unless they are a nuisance. Horses, llamas and mules shall be allowed for up to 20 days per year.

Snowmobiles, motorcycles, and all-terrain vehicles may not be used in the subdivision except for ingress/egress to the owner's property.

ACCOMMODATION



**AMENDMENTS TO THE DECLARATION  
OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR  
WHISPERING PINES SUBDIVISIONS NOS. 1, 2 AND 3**

Pursuant to the provisions of Section 10.5 of the Declaration of Covenants, Conditions and Restrictions and Easements for Whispering Pines Subdivisions Numbers 1, 2 and 3 (hereinafter the "Declaration,") the following amendments are hereby adopted on the date hereinafter set forth:

WHEREAS, KDB, LLC, an Idaho limited liability company, has previously filed of record a Declaration of Covenants, Conditions, Restrictions and Easements for Whispering Pines Subdivision No. 1 on August 8, 2005 as Instrument No. 299237, and a Notice of Annexation and Supplemental Declaration of Covenants, Conditions, Restrictions and Easements for Whispering Pines Subdivision No. 2 on September 27, 2006 as Instrument No. 313769 and a Notice of Annexation and Supplemental Declaration of Covenants, Conditions, Restrictions and Easements for Whispering Pines Subdivision No. 3 on January 15, 2008 as Instrument No. 328442, and an Amendment to Notice of Annexation and Supplemental Declaration of Covenants, Conditions, Restrictions and Easements for Whispering Pines Subdivision No. 3 on February 3, 2014 as Instrument No. 383165, records of Valley County, Idaho.

WHEREAS, DeMar C., Burnett, Sharon J. Burnett, David C. Dickerson and Kristy Burnett are the successors in interest to KDB, LLC, pursuant to Section 2.10 of the Declaration, and are collectively the owners of at least ten percent (10%) or more of the unsold lots in Whispering Pines Subdivision Nos. 1, 2 and 3, and are therefore entitled to amend said Declaration pursuant to said Section 10.5 thereof.

NOW, THEREFORE, pursuant to the provisions of Section 10.5 of said Declaration, said Declaration is hereby amended as follows:

1. Section 3.5 is hereby amended to read in its entirety as follows:

**Section 3.5: Temporary Structures.** No structure of a temporary character, trailer, basement, tent, shack, garage, barn, yurt or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently. During the period of construction as defined and limited by Section 8.5, an owner shall be entitled to the use of a tent, trailer or motor home or other recreational vehicle as temporary living accommodations. Visitors and guests may park a camper, motor home or trailer on a Lot for a reasonable term, not to exceed fourteen (14) days consecutive duration, with a minimum of three (3) days between periods, nor more than a total of sixty (60) days each calendar year. In addition, an owner shall be entitled to utilize a recreational vehicle upon the owner's Lot during the months of April through October in each calendar year.

All recreational vehicles shall be maintained in good condition. An owner shall have the same rights prior to the commencement of construction.

2. Section 3.6 is hereby amended to read in its entirety as follows:

**Section 3.6. Minimum Size of Buildings.** A residence shall contain no less than 1,100 square feet, if single storied, or 1,400 square feet if two storied, with a minimum of 900 square feet on the main level, of heated floor area devoted to living purposes (i.e. exclusive of roof or unroofed porches, terraces, basements or garages). All construction must be of good quality and done in a good and workmanlike manner.

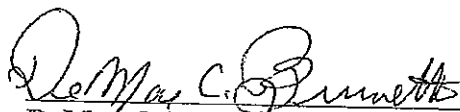
3. Section 3.24 is hereby amended to read in its entirety as follows:

**Section 3.24. Animals.** Except as provided herein, no animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except for household pets, which may be kept provided that they are not kept, bred or maintained for any commercial purpose. It is specifically noted that livestock, poultry and wild animals are not to be considered household pets, provided, however that up to six (6) hen (no roosters) chickens may be kept upon any Lot if kept in an acceptable enclosure. All household pets shall be kept on the Owner's Lot, except when accompanied by and under the control of the Owner and shall not be allowed to create or become a nuisance.


Consistent and/or chronic barking by dogs shall be considered a nuisance. Owners understand and acknowledge that the Property is bordered by private and public grazing land and that dogs leaving the Property and harassing livestock or wild animals may be killed, as allowed by law.

Large animals, such as horses, mules, cattle, llamas, sheep and comparable sized animals shall not be allowed or kept on any Lot; provided that horses, llamas or mules for use by an Owner may be allowed on a Lot for up to, but not exceeding 60, days during the months of May through August with no more than 20 days of consecutive use, as long as such animals are kept in an enclosure which has been approved by the Architectural Control Committee. The enclosure cannot be constructed of barbed wire or chain link.

IN WITNESS WHEREOF, the undersigned, being the successors to the Declarant, have hereunto executed the above and foregoing Amendments this 20 day of December, 2019.

  
DeMar C. Burnett

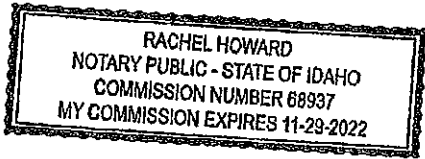
  
Sharon J. Burnett

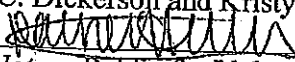
  
David C. Dickerson

  
Kristy Burnett

STATE OF IDAHO )  
County of ada ) : SS

This record was acknowledged before me on December 20<sup>th</sup>, 2019 by  
DeMar C., Burnett, Sharon J. Burnett, David C. Dickerson and Kristy Burnett



  
Notary Public for Idaho  
Residing at: Meridian, ID  
My Commission Expires: 11-29-2022

Whispering Pines  
and Amendments  
7/2022



00616CCR

299237

Instrument # 299237  
VALLEY COUNTY, CASCADE, IDAHO  
2005-08-23 11:16:03 No. of Pages: 27  
Recorded for: CHRISTY BURNETT  
LELAND G. HENRICH  
Ex-Officio Recorder Deputy  
Index to: RESTRICTIVE COVENANT

Fee: \$1.00  
*[Signature]*

DECLARATION  
OF

COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR  
WHISPERING PINES SUBDIVISION NO. 1

THIS DECLARATION (the "Declaration") is made on the date hereinafter set forth by KDB, LLC, an Idaho limited liability company, hereinafter referred to as "Declarant".

ARTICLE 1 - GENERAL

**Section 1.1: Common Interest Community:** The name of the common interest community created by this Declaration is "Whispering Pines Subdivision No. 1." All of the community is located in Valley County, Idaho.

**Section 1.2: Property Affected:** Declarant owns certain real property in Valley County, Idaho, which is described on the attached Exhibit "A." Such property, together with any property which is annexed thereto by Declarant, pursuant to the terms of this Declaration, shall be referred to in this Declaration as "the Property." The "Existing Property," when used in this Declaration, refers to only that property identified in the attached Exhibit "A."

**Section 1.3: Purpose of Declaration:** This Declaration is executed and recorded (a) to provide for the Homeowner's Association to maintain public and private roads within the Property and to perform certain functions for the benefit of Owners of land within the Property; (b) to define the duties, powers and rights of the Homeowner's Association; (c) to define certain duties, powers and rights of Owners; and (d) to provide certain covenants, conditions, restrictions and easements to assure and enhance the value, desirability and attractiveness of the Property and to provide for the mutual protection of the Owners thereof;

**Section 1.4: Declaration:** Declarant hereby declares that the Property is and shall be held, conveyed, encumbered, leased, and used subject to the following covenants, conditions, restrictions, easements and equitable servitudes, which shall run with the Property, and each and every part, parcel and lot thereof, and shall be binding upon all persons having or acquiring any right, title or interest in the Property or any part, parcel or lot thereof; shall inure to the benefit of every portion of the Property or any interest therein; and shall inure to the benefit of and shall be binding upon Declarant, the Owners, and their respective heirs, successors and assigns, and may be enforced by Declarant, or by the Association, or by any Owner.

By acceptance of any conveyance of any Lot within the Property, the Owner and Owner's heirs, the Declarant and Declarant's successors and assigns, and with all other Owners of Lots within the Property, or subsequent Owners thereof, acknowledge and agree that the covenants, conditions, restrictions, easements and equitable servitudes set

forth herein shall inure to the benefit of and be binding upon all such parties.

## **ARTICLE 2 - DEFINITIONS**

### **Definitions**

**Section 2.1: Architectural Control Committee:** "Architectural Control Committee" shall mean the committee created pursuant to Article 8.

**Section 2.2: Articles:** "Articles" shall mean the Articles of Incorporation of the Association or other organizational or charter documents of the Association.

**Section 2.3: Association** shall mean and refer to the **Whispering Pines Subdivision No. 1 Homeowners' Association, Inc.**, a nonprofit corporation organized or to be organized under the laws of the State of Idaho, or any successor or assign of the corporation.

**Section 2.4: Association Documents** shall mean the various operative documents of the Association, including: (a) the Articles of Incorporation of the Association; (b) the Bylaws of the Association; and, (c) this Declaration, and all amendments to any of the aforementioned documents.

**Section 2.5: Board of Directors:** "Board of Directors" or "Board" shall mean the Board of Directors of the Association.

**Section 2.6: Bylaws:** "Bylaws" shall mean the Bylaws of the Association.

**Section 2.7: Committee:** "Committee" shall mean and refer to the Architectural Control Committee as set forth in Article 8 hereof.

**Section 2.8: Common Area:** "Common Area" shall mean all the real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners (subject to the provisions hereof), and are not dedicated to the public. The Common Area to be owned by the Association at the time of the conveyance of the first Lot shall be as described on the recorded plat of the subdivision.

The Common Area cannot be mortgaged or conveyed without the consent of at least two-thirds (2/3) of the Owners.

Ownership of each Lot shall include an equal and undivided interest with all Owners in and to the Common Area.

**Section 2.9: Community:** "Community" as used herein shall refer to the Existing Properties considered as a whole.

**Section 2.10: Declarant:** "Declarant" shall mean and refer to KDB, LLC, an Idaho limited liability company, and its successors and assigns, if such successors and assigns should acquire more than one (1) undeveloped Lot from the Declarant for the purpose of development, and such Lots constitute the remainder of the unconveyed Lots owned by Declarant.

**Section 2.11: Declaration:** "Declaration" shall mean this Declaration of Covenants.

**Section 2.12: Existing Property:** "Existing Property" shall mean the real property described on Exhibit "A." "The Property" or "the Subdivision" shall mean the Existing Property, together with any additional properties which are annexed to the Existing Property pursuant to Article 9 herein. Either term shall include any improvements now or hereafter made on such real property and appurtenances and rights to such real property.

**Section 2.13: Improvements:** "Improvements" shall include buildings, outbuilding, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, poles, signs and all other structures of landscaping improvements of every type and kind.

**Section 2.14: Lot:** "Lot" shall mean and refer to any Lot numbered and designated as such upon the official plat of the Property. A lot may also be referred to as a "Parcel."

**Section 2.15: Member:** "Member" shall mean a member of the Association, who must be an Owner. Membership in the Association shall be appurtenant to and may not be severed from ownership of a Lot.

**Section 2.16: Owner:** "Owner" shall mean and refer to the record title holder, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation.

**Section 2.17: Person:** "Person" shall mean a natural person, a corporation, a partnership, or any other entity recognized as being capable of owning real property under Idaho law.

**Section 2.18: Plat:** "Plat" shall mean the final plat, filed of record with the Office of the Recorder, Valley County, Idaho.

**Section 2.19: Record, Recorded:** "Record" or "Recorded" shall mean, with respect to any documents, the recordation of said document in the Office of the County Recorder, Valley County, Idaho.



**Section 2.20: Rules and Regulations:** "Rules and Regulations" shall mean the rules and regulations adopted by the Board of Directors concerning the operation of the Association.

**Section 2.21: Structures:** "Structures" shall include buildings, outbuildings, fences, walls, stairs, decks and poles.

### **ARTICLE 3 -- LAND USES AND IMPROVEMENTS**

**Section 3.1: Land Use and Living Units:** All Lots shall be used exclusively for residential living purposes and such uses as are customarily incidental thereto. No portion of any Lot shall be used for the conduct of any business or professional activities or for the conduct of any trade or business, except that the Board may grant variances for in home businesses which do not involve the coming and going of clients or the parking or storage on a Lot of vehicles, machinery, equipment or materials, unless the Board determines, in its sole discretion, that the impacts of the in home business will be negligible on other lot owners. Variances for in home businesses shall be considered and determined as set forth in Section 8.9 herein. No allowed in home business shall expand the scope thereof beyond what is approved by the Board without seeking a further variance. No noxious or undesirable use of any Lot shall be permitted or maintained. None of the subject lots or parcels shall be split, divided or subdivided into smaller lots or parcels than indicated on the final plat of the subdivision, as filed with the office of the County Recorder, Valley County, Idaho.

**Section 3.2: Improvements:** No Lot shall be improved except with a dwelling or residential structure designated to accommodate no more than a single family and its servants and occasional guests plus an attached or detached guest/caretaker residence (i.e. either incorporated into the primary residence or freestanding, but not both) and other improvements and structures as are necessary or customarily incident to a single family residence, provided, (1) a garage sufficient in size for Owner's vehicles must be constructed either as part of the primary residence or, if detached, within one year after the construction of the residence; and (2) no more than a total of four (4) buildings, or five (5) buildings if a guest/caretaker residence is constructed and if the garage is detached, shall be allowed on any lot. No use whatsoever shall be made of any parcel herein other than as the site and grounds of a private residence. The term "private residence" as used herein is intended to exclude every form of multi-family dwelling, boarding or lodging house, and the like; and, any separate rental of any separate dwelling unit shall be specifically determine to be multi-family dwelling. This is not, however, intended to exclude an attached or detached guest/caretaker residence, as provide above, if such guest, family member's, or caretaker's housing is allowed by applicable Valley County Ordinances, and Central District Health. An Owner may rent or lease their residence; provided: the Owner shall assure that the renters/lessees are aware of these Covenants and shall incorporate these Covenants into any rental or leas agreement; the Owner shall be responsible for any violations by renters/lessees of any of the provisions

of these Covenants; and, the minimum rental period shall be thirty (30) days.

**Section 3.3: Dwelling Structures.** No dwelling or residential structure or complex shall be constructed on any Lot without approval of the appropriate Committee of design, specifications, outside color, etc. All buildings shall be constructed on site, unless otherwise specifically approved by the Architectural Control Committee. No modular or similar homes shall be allowed. The Committee shall only allow manufactured type housing components under circumstances and conditions which preserve the integrity of the subdivision and will assure that the construction conforms to the architectural quality and appearance of the subdivision as a whole.

**Section 3.4: Exterior Effects.** No dwelling, fence, building, outbuilding, guest/caretaker residence, garage or other structure shall be built, erected, placed, materially altered or materially repaired which shall alter the surface colors or texture of any unit or portion thereof unless and until plans, specifications and color scheme have been approved in writing, conditionally or otherwise, by the appropriate Committee. The requirements as to design and color shall apply only to the exterior appearance of such improvements, it not being the intent of these restrictions to control interior repair or alteration, with the exception of alteration of a garage into living area. No Owner shall alter the exterior of any unit nor construct any additions or other exterior structures without the prior written approval of the Committee.

**Section 3.5: Temporary Structures.** No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently. During the period of construction as defined and limited by Section 8.5, an owner shall be entitled to the use of a tent, trailer, motor home or other recreational vehicle as temporary living accommodations. Visitors and guests may park a camper, motor home or trailer on a Lot for a reasonable term, not to exceed fourteen (14) days consecutive duration, with a minimum of three (3) days between periods, nor more than a total of sixty (60) days each calendar year. An Owner shall have the same rights, prior to the commencement of construction.

**Section 3.6: Minimum Size of Buildings.** A residence shall contain no less than 1,500 square feet, if single storied, or 1,800 square feet, if two storied, with a minimum of 1,200 square feet on the main level, of heated floor area devoted to living purposes (i.e. exclusive of roof or unroofed porches, terraces, basements or garages); and all construction must be of good quality and done in a good and workmanlike manner.

**Section 3.7: Approval by Committee.** No improvements which will be visible above ground or which will ultimately affect the visibility of any above ground improvement shall be built, erected, placed or materially altered on or removed from the Property unless and until the building plans, specifications, and plot plan or other appropriate plans and specifications have been reviewed in advance by the Architectural Control committee, and the same have been approved in writing. The procedures for

approval are as more fully set forth in Article 8.

**Section 3.8: Trees.** The planting of trees shall not require prior approval by the Architectural Control Committee. Existing trees shall be managed according to best management silviculture practices and according to the following principles:

1. Trees may be cleared for preparation of building sites, driveway construction, view enhancement, removal of dead or diseased trees, and prevention of overcrowding;
2. Otherwise, removal of trees shall require prior approval of the Architectural Control Committee; and
3. Timber management goals within the subdivision shall be to preserve healthy timber stands; to thin and remove diseased, dead or dying trees, except where essential to wildlife habitat, to maintain appropriate crown spacing for fire prevention purposes, and to maintain the visual aesthetic forest appearances.
4. In the event that overcrowding or excessive fuel load on a Lot create a clear and present danger to the safety of other Lot Owners and/or their structures, then the Board shall have the authority to remove such trees as follows:
  - (a) The Board shall secure a written opinion from an independent forester confirming the clear and present danger as aforesaid;
  - (b) The opinion, together with a written demand from the Board, must be served on the Owner, personally or by certified mail;
  - (c) The Owner must be allowed a reasonable period of time to remove the trees which shall, in no case, be less than thirty (30) days during the snow-free season; and,
  - (d) The Owner shall be entitled to the net proceeds from the timber which is removed, after deduction by the Board of all actual costs incurred by the Association or the Board associated with the removal of the trees.

**Section 3.9: Detached Structures.** Detached garages, guest quarters, barns, outbuildings and storage sheds shall be allowed if in conformity with the provisions of the Declaration and the applicable ordinances of Valley County. Garages, storage sheds, patio and deck covers, and all other structures shall be constructed of, and roofed with, the same or compatible materials, and with similar colors and design, as the residential structure on the applicable Lot, or as otherwise approved by the Architectural Control Committee. Construction of any detached structure prior to the construction of a residence shall require Architectural Control Committee approval.

**Section 3.10: Driveways.** All access driveways shall have an all weather wearing surface approved by the Architectural Control Committee and shall be constructed to assure proper drainage. The foregoing is not a requirement that driveways be paved. Surfacing of driveways shall not be required until the construction of a residence, as long as this does not materially affect the Subdivision adversely.

**Section 3.11: Exterior Lighting.** Exterior lighting shall be part of the architectural concept of the improvements on a Lot. Fixtures, standards and all exposed accessories shall be harmonious with building design, and shall be as approved by the Architectural Control Committee. Lighting shall be restrained in design, and excessive brightness shall be avoided. For instance, flood lights and other similar bright lights shall not be allowed; and all lighting shall be shielded and directed downward, and shall comply with all Valley County light or other applicable ordinances.

**Section 3.12: Height Restrictions:** The maximum height of any building shall be in compliance with the applicable Valley County land use or zoning ordinances, but shall not exceed thirty-five (35) feet in height, measured from the grade which pre-existed construction to the highest point of any roofline. Height shall be measured as provided in the 1997 Uniform Building Code or any subsequent re-codification or replacement thereof.

**Section 3.13: Roofs.** Roof shall be required to be of pitched design and shall be covered with nonflammable materials (e.g. non-reflective metal, tile, fiberglass shingles, fire retardant wood shingles or shakes, composition or asphalt shingles.) No galvanized metal roofs shall be allowed. Metal roofs shall be of earth tone colors which are compatible with the Property. Owners desiring to use non-metal roofs must demonstrate to the Architectural Control Committee that the desired material is fire resistant.

**Section 3.14: Exterior Surfaces, Materials and Colors.** The color and type of the exterior surfaces of any structure shall be subject to approval by the Architectural Control Committee. Exteriors must be of natural wood, stone, stucco, high quality vinyl siding, or manufactured siding or similar products.

**Section 3.15: Antennas and Satellite Dishes.** No television or other satellite dishes larger than thirty-six (36) inches in diameter shall be allowed. No external television antennas shall be allowed. Antennas for radio or other purposes must be approved in advance by the Architectural Control Committee as to location, height and appearance.

**Section 3.16: Motorhomes and Recreational Vehicles.** Parking of snow mobiles (on or off trailers), motorhomes, motorcycles, trucks, truck-campers, boats, boat trailers, any recreational vehicle and like equipment, shall not be allowed on any part of said property nor on any public ways adjacent thereto, except as follows. Said equipment may be parked or stored only in the confines of an enclosed garage, and no portion of the same may project beyond the enclosed area, or in an area which is completely screened

from view from other Lots or roads within the Subdivision. Provided, however, the parking of such vehicles or equipment in view of other Lots or roads for any period of less than eight (8) continuous days shall not violate this covenant.

**Section 3.17: Wild Game.** Nothing shall be done or kept on any Lot which will inhibit, interfere with, or endanger the wild game which enter onto any Lot, or anywhere in the Subdivision. All Lot Owners shall accept the fact that the wild game will eat landscaping, plants and trees. Lot Owners may use only game-friendly means of protecting their landscaping. Wild game shall not be fed within the Property.

**Section 3.18: Plumbing.** All bathroom, sink and toilet facilities shall be inside residence buildings and shall be connected by underground pipes directly with a sewage disposal system designed for the whole area and located and approved by the Central District Health Department and Valley County.

**Section 3.19: Storage; Refuse.** No machinery, appliance or structure or unsightly material may be stored upon any Lot or Common Area nor shall trash, garbage, ashes or other refuse be thrown, dumped, burned or otherwise disposed of upon any Lot or Common Area. Each Owner, at his own expense, shall be responsible for disposal of his own trash, garbage, ashes and other refuse and each Owner shall be required to store the same in cans or garbage disposal facilities out of public sight. No part of the Property shall be used or maintained as a dumping ground for rubbish, trash, garbage or any other waste. No rubbish, garbage, trash or other waste shall be kept or maintained on any part of a Lot except in a sanitary container. All containers or equipment shall be kept in a clean and sanitary condition.

**Section 3.20: Mailboxes.** The Subdivision shall be served by cluster mailbox structures and individual mailboxes shall not be allowed on or for any Lot. Each Lot Owner shall pay the Declarant the sum of \$150.00 for the required cluster mailboxes, to be paid at the closing of the Lot purchase.

**Section 3.21: Signs.** No signs or billboards of any kind or for any use shall be erected, painted or displayed upon any Lot or Common Area except by the Declarant who reserves the right to display signs, notwithstanding other provisions hereof, during the period Declarant or his authorized agent is selling Lots or units, and except that the resident Owners of Lots may display a name and address sign of customary size for identification of the occupants and the address of any dwelling, or as may be reasonably necessary or desirable to give directions, advise or rules and regulations or to caution or warn of danger and such other signs as may be required by law. Construction signs during the period of construction and For Sale signs shall be permitted, provided that such signs shall not exceed nine (9) square feet in area. Any signs which are permitted under the foregoing restrictions shall be erected or maintained only with prior approval of the appropriate Committee, which approval shall be given only if such signs shall be of attractive design and in keeping with the total aesthetic theme of the Property and shall be

as small in size as is reasonably possible and shall be placed or located as directed or approved by the Committee.

**Section 3.22: Landscaping.** After construction, landscaping upon each Lot shall be maintained in a watered, trimmed, clean and orderly condition, so as not to present an offensive and detracting appearance. Of critical concern with regard to landscaping in the Subdivision is the preservation of the stability of hill sides and the prevention/control of wild fires. Native, drought resistant plant species shall be preferred; however, lawns and other landscaping shall be allowed.

**Section 3.23: Fencing.** Except for Declarant's perimeter fencing, no fence, wall or hedge higher than four (4) feet shall be erected or maintained on any Lot without the prior written approval of the Architectural Control Committee. Posts are excluded from the four (4) foot height limitation. The Architectural Control Committee shall have complete control over the allowance of a fence over the four (4) foot height limitation, except for the Declarant's perimeter fencing. No fence, except the exterior perimeter fencing, may be constructed of wire or metal. Property perimeter fences may be constructed of barbed wire. Wood fencing shall be preferred. All fencing, except Declarant's perimeter fencing, shall first be approved by the Architectural Control Committee. For so long as Declarant is grazing or allowing grazing of livestock, Lot Owners shall be responsible for fencing livestock out of their property if they desire.

**Section 3.24: Animals.** No animals, livestock, or poultry or any kind shall be raised, bred or kept on any Lot, except for household pets, which may be kept provided that they are not kept, bred or maintained for any commercial purpose. It is specifically noted that livestock, poultry and wild animals are not to be considered household pets. All household pets shall be kept on the Owner's lot, except when accompanied by and under the control of the Owner, and shall not be allowed to create or become a nuisance.

Consistent and/or chronic barking by dogs shall be considered a nuisance. Owners understand and acknowledge that the Property is bordered by private and public grazing land and that dogs leaving the Property and harassing livestock or wild animals may be killed, as allowed by law.

Large animals, such as horses, mules, cattle, llamas, sheep, and comparable sized animals shall not be allowed to be kept on any Lot; provided that horses, llamas or mules for use by an Owner may be allowed on a lot for up to, but not exceeding, twenty (20) days within any calendar year, as long as such animals are kept in an enclosure which has been approved by the Architectural Control Committee. The enclosure cannot be constructed of barbed wire or chain link.

**Section 3.25: Limited Grazing and Agricultural Uses.** For a period of up to two (2) years from the recording of this Declaration, the Declarant shall be allowed to graze or allow others to graze cattle upon the Property while development and construction is taking place in order to control vegetation growth for fire control purposes and to preserve agricultural exemptions for property tax purposes for unoccupied lots for as long as possible. Lot Owners shall be responsible for fencing out livestock from their

Lots if desired. Any proceeds from such grazing shall belong to the Declarant. The Declarant may determine prior to the expiration of the two (2) year time period, in the Declarant's sole discretion, when grazing should cease upon the Property. All Lot Owners shall be bound by the provisions of Chapter 45, Title 22 of the Idaho Code with regard to the right to farm with respect to adjoining properties where agricultural and ranching pursuits and activities may continue indefinitely in the future.

**Section 3.26: Nuisances.** No noxious or offensive activity, including without limitations, those creating an offensive odor, shall be carried on upon any Lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. All-terrain vehicles, snow machines, motorcycles and other similar motorized vehicles may not be operated within the Subdivision, except for direct ingress/egress to the Owner/Operator's Lot, or for property maintenance, upkeep and repair.

**Section 3.27: Hazardous Activities.** No activity shall be conducted on any Lot or Common Area which is or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon the Subdivision; no open fires shall be lighted or permitted on any property except in a self-contained barbecue unit or improved fire pit while attended and in use for cooking purposes, or within a safe and well-designed interior or exterior fireplace. Burning of natural materials such as grass/tree trimmings shall take place only with required permits from the local Fire Department and any other agency or authority with jurisdiction. The policies, practices and instructions of such entity shall be strictly followed.

**Section 3.28: Unsightly Articles.** No unsightly articles shall be permitted to remain on any Lot as to be visible from any other portion of the property. Without limiting the foregoing, no clothing or household fabrics shall be hung, dried or aired in such a way as to be visible from any other portion of the property. No lumber, grass, shrub or tree clippings or plant waste, compost piles, metals, building or other materials or scrap or other similar material or articles shall be kept, stored or allowed to accumulate on any portion of the property except within an enclosed structure or appropriately screened from view as approved, in writing, by the Architectural Control Committee. All propane tanks shall be screened from view. "Screened" is defined as being concealed or made non-visible from eye level, at grade, at all points within the property. Garage doors shall not be left open for unreasonable lengths of time.

**Section 3.29: Rebuilding and Restoration.** Any dwelling unit or other improvements which may be destroyed in whole or in part must be rebuilt, or all debris must be removed and the Lot restored to a sightly condition. Such rebuilding, restoration or removal shall be completed with reasonable promptness and in any event within one (1) year from the time the damage occurred.

**Section 3.30: Utilities.**

**A. Telephone and Electrical.** The Declarant shall provide underground electrical power and telephone service lines to the Subdivision Lots. The purchaser or owner of each Lot agrees to use the service so provided. Private electrical generating systems shall not be permitted for domestic electrical service, except for a back up system in case of primary electrical service failure. All electrical power lines, telephone lines and other utility service lines shall be underground from each individual parcel line to the point of use on each parcel. Overhead lines and utility poles shall not be permitted, except during the construction phase.

**B. Water.** Water for each Lot shall be provided by means of individual wells, installation and maintenance of which shall be the sole and exclusive responsibility of each Lot Owner. Declarant makes no representations nor warranties as to the availability, quantity or quality of water obtainable on any Lot.

**C. Sewage Disposal and System Inspections.** Sewage disposal for each Lot shall be supplied by means of individual septic/drain field systems. Permits therefore shall be required from the Central District Health Department. Each Lot Owner shall submit all septic systems to annual inspection as required by the State of Idaho Department of Environmental Quality (DEQ.) The Homeowner's Association shall collect the annual fee for such inspections from Lot Owners using a septic system.

**D. Solar Panels.** With the prior approval of the Architectural Control Committee, solar panels shall be allowed, provided that they are unobtrusive and do not detract from the architectural appearance and features of the residence.

**Section 3.31: No Further Subdivision.** No Lot may be further subdivided.

**Section 3.32: Roads.**

**A.** All roads within the Subdivision shall be private, with the exception of Warner Road, which shall be a public road. Maintenance, repair, replacement and/or plowing of the public and private roads shall be the responsibility of the Homeowner's Association. Declarant shall construct such roads to the standards required by applicable government or other authorities in effect at the time of construction. The Association shall be entitled to maintain a gate at the entrance of the Subdivision; provided, the gate may not be locked without the prior consent of the Declarant or Declarant's successor and assigns, which consent can be withheld for any reason.



B. All public and private roads and streets within the subdivision shall be repaired and maintained by the Homeowners' Association which is established herein and which Homeowners' Association shall have the authority and power to assess the property owners for such purposes.

C. The public road within the subdivision is subject to a prior existing ingress and egress easement in favor of the owner(s) of real property adjoining the subdivision. Owners are advised, pursuant to Idaho court decisions, that the owner(s) of said property to which the easement is appurtenant may be entitled in the future to increase the use of the easement consistent with the normal development of the owner(s) land.

**Section 3.33: Vegetation and Noxious Weeds.** Any lot disturbed as a result of grading or construction shall be revegetated to at least its original condition no later than one construction season after being disturbed. Additionally, each Lot Owner shall follow the guidelines provided in the Valley County Comprehensive Noxious Weed Management Plan.

**Section 3.34: Exemption of Declarant.** Nothing contained herein shall limit the right of Declarant to complete excavation, grading and construction of improvements to and on any portion of the Property owned by Declarant or to construct such additional improvements as Declarant deems advisable in the course of development of the Property, so long as any 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 Declarant's businesses of completing the work and disposing of the same by sale, lease or otherwise. Construction and development work may be conducted upon the Subdivision by the Declarant and others which may result in noise, traffic, dust, smoke and other associated effects. Declarant shall have the right to excavate or otherwise remove gravel from unplatted portions of the property and use the same for construction upon the Subdivision or sale for other outside uses. Declarant shall have the right at any time prior to acquisition of title to a lot by a purchaser from Declarant to grant, establish and/or reserve on that Lot additional licenses, reservations and rights-of-way to Declarant, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and disposition of the Property. Declarant need not seek or obtain Architectural Control Committee approval of any such improvements constructed or placed by Declarant on any portion of the Property owned by Declarant or an affiliate of Declarant. The rights of Declarant hereunder may be assigned by Declarant to any successor in interest in connection with Declarant's interest in any portion of the Property by an express written assignment recorded in the Office of the Valley County Recorder.

#### **ARTICLE 4 - EASEMENTS**

**Section 4.1: Easements for Access Roads.** The Declarant shall construct the roads depicted on the Plat of the Property in conformity with the specifications required by applicable government entities. Initial construction of the roads to such standards shall

fulfill Declarant's responsibility to the Owners and the Association with respect to roads. Declarant shall convey the non-exclusive road easements, as platted, to the Association, at the discretion of the Declarant, but no later than the time when Declarant's control of the subdivision ceases, as set forth in Section 5.5 herein. No formal acceptance by the Association shall be required. Upon completion of construction, the Association shall thereafter be solely responsible for the maintenance, repair and upkeep of such roads. The aforesaid responsibilities and process of completion and conveyance shall apply to all public and private roads platted within property which may be annexed to the Existing Property, pursuant to Article 9 below.

**Section 4.2: Drainage and Utility Easements.** A ten foot (10') public utility and drainage easement is reserved adjacent to all roads within the Property, along the front property lines of all Lots, and along the outer or exterior boundary of the Property, as shown on the recorded Plat.

**Section 4.3: Formal Recorded Easements.** If any entity furnishing a service covered by the easements created herein requests a specific easement by separate recordable document, Declarant reserves and is hereby given the right and authority to grant such easement. The Association shall succeed to such right and authority upon conveyance by Declarant of the last Lot in the Property to the first Owner thereof other than Declarant. The easements(s) provided for in this Declaration shall in no way affect, avoid, extinguish or modify any other recorded easement on the Property.

**Section 4.4: General Easement for Maintenance of Fences and Landscaping.** An easement is hereby reserved to the Declarant and the Association, their contractors and agents, to enter those portions of Lots for the purpose of installing, maintaining, replacing and restoring any Association-owned or -controlled fences and landscaping. Such activity shall include, by way of illustration and not of limitation, fence maintenance, and such other landscaping activities within the Property as the Association may be required to perform and as shall determine to be necessary from time to time.

## **ARTICLE 5 – HOMEOWNER'S ASSOCIATION**

**Section 5.1: Organization of Association.** The Whispering Pines Subdivision No. 1 Homeowner's Association, Inc. ("Association") is an Idaho nonprofit corporation formed pursuant to the Idaho Nonprofit Corporation Act, and shall be charged with the duties and invested with the powers prescribed by law and set forth in the Articles of Incorporation of the Association, the By-Laws of the Association, and this Declaration. Neither the Articles nor the By-Laws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

**Section 5.2: Membership.** Each Owner of a Lot subject to this Declaration,

including Declarant, by virtue of being such an Owner and for so long as such ownership is maintained, shall be a member of the Association, and consents to such membership by virtue of ownership of a Lot. Each Lot shall be entitled to one (1) vote. Memberships in the Association shall not be assignable, except to the successor-in-interest of the Owner, and all memberships in the Association shall be appurtenant to the Lot owned by such Owner. The memberships in the Association shall not be transferred, pledged or alienated in any way except upon the transfer of title to a Lot and then only to the transferee of title to said Lot. Any attempt to make a prohibited membership transfer shall be void and will not be reflected on the books of the Association.

**Section 5.3: Voting and Quorum.** The Association will have one (1) class of membership, which shall be voting membership. Ten percent (10%) of the total number of voting memberships shall constitute a quorum at any meeting of the membership. In the event that a quorum is not present, another meeting may be called and the required quorum at the subsequent meeting, after notice as provided in the Association Bylaws, shall be five percent (5%) of the total number of voting memberships. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**Section 5.4: Board of Directors and Officers.** The affairs of the Association shall be conducted by a Board of Directors and such officers as the Directors may elect or appoint, in accordance with the Articles, By-Laws and this Declaration as the same may be amended and supplemented from time to time.

**Section 5.5: Declarant's Control of the Association.** The Declarant shall maintain control of the Association which right to control, including the right to the selection of the Board of Directors, selection of the Architectural Control Committee, and powers over assessments, shall terminate upon the occurrence of the first of the following events:

A. By written notice from the Declarant to the President or Secretary of the Association of the Declarant's intention to terminate its right to control the Association and to appoint the Board of Directors. The Declarant may elect to terminate its rights in part and retain other rights as the Declarant may determine.

B. Upon that date which is sixty (60) days after ninety percent (90%) of the Lots in the Subdivision (including property which is annexed into the Property pursuant to the terms of this Declaration) have been sold to persons other than the Declarant.

C. In the event that control of the Association by the Declarant has terminated, as provided herein, and the Declarant thereafter exercises its right to annex additional properties to the Subdivision, as provided in Article 9 herein, the Declarant shall nevertheless exercise control in the manner set forth herein over

the annexed properties until such time as ninety percent (90%) of the lots in such annexed properties have been sold.

## **ARTICLE 6 – POWERS AND DUTIES OF THE ASSOCIATION**

**Section 6.1: Powers.** The Association shall have all the powers of a nonprofit corporation organized under the Idaho Nonprofit Corporation Act subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the By-Laws and this Declaration. It shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under the Declaration, the Articles and the By-Laws, and to do and perform any and all acts which may be necessary or proper for, or incidental to the proper management and operation of the Common Area and the performance of the other responsibilities herein assigned, including without limitation:

**A. Assessments.** The power to levy assessments (annual, special and limited) on the Owners of Lots and to enforce payment of such assessments, all in accordance with the provisions of this Declaration.

**B. Right of Enforcement.** The power and authority from time to time in its own name, on its own behalf or on behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or the Articles or the By-Laws, including the Association rules adopted pursuant to this Declaration, and to enforce by mandatory injunction or otherwise, all provisions hereof.

**C. Delegation of Powers.** The authority to delegate its power and duties to committees, officers, employees, or to any person, firm or corporation to act as manager. Neither the Association nor the members of its Board of Directors shall be liable for any omission or improper exercise by the manager of any such duty or power so delegated.

**D. Association Rules.** The power to adopt, amend and repeal by majority vote of the Board such rules and regulations as the Association deems reasonable and which are consistent with this Declaration (the Association rules). A copy of the Association rules as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner. Upon such mailing or delivery and posting, said Association rules shall have the same force and effect as if they were set forth in and were a part of this Declaration. In the event of any conflict between any such Association rules and any other provisions of this Declaration, or the Articles or By-Laws, the provisions of the Association rules shall be superseded by the provisions of this Declaration, the Articles or the By-Laws to the extent of any such inconsistency.

**E. Emergency Powers.** The Association or any person authorized by the

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

**Section 6.2: Duties of the Association.** In addition to power delegated to it by the Articles, without limiting the generality thereof, the Association or its agent, if any, shall have the obligation to conduct all business affairs of common interest to all Owners, and to perform each of the following duties:

**A. Operation and Maintenance of Association Property.** Operate, maintain and otherwise manage or provide for the operation, maintenance and management of all real and personal property owned or acquired by the Association.

**B. Taxes and Assessments.** The Association shall pay all taxes, federal, state or local, including income or corporate taxes levied against the Association in the event that the Association is denied the status of a tax exempt corporation.

**C. Insurance.** Obtain, if the Board so elects, from reputable insurance companies authorized to do business in the State of Idaho, and maintain in effect casualty, liability and/or other insurance as the Board deems appropriate.

**D. Rule Making.** Make, establish, promulgate, amend and repeal the Association rules.

**E. Architectural Control Committee.** Appoint and remove members of the Committee, all subject to the provisions of this Declaration.

**F. Drainage Systems.** Operate, maintain, repair and replace, all drainage systems located within the Property and shown on the Plat which are not maintained by public authorities or are the responsibility of individual Lot Owners.

**G. Subdivision Approval Responsibilities.** Perform all continuing duties and responsibilities imposed upon the Declarant pursuant to any governmental approvals related to the Property including, without limitation, those set forth in the preliminary plat approval.

**H. Maintenance of Subdivision Roads.** The Association shall operate, improve, repair and maintain all of the public and private roads within the Subdivision. Provided, however, that the Association shall not be required to provide winter maintenance for roads where no residences have been constructed, and shall only be required to provide winter maintenance to Lots with residences.

**Section 6.3: Personal Liability.** No member of the Board, member of the Committee or any other committee of the Association, or any officer of the Association, or the Declarant, 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, omission, error or negligence of the Association, the Board, the Committee or any other committee of the Association, the Declarant, or the manager, if any, or any agent, representative or employee of the Association, the Board, the Committee or any other committee of the Association, the Declarant or the manager, provided that such person has, upon the basis of such information as may be possessed by him, acted in good faith without willful or intentional misconduct.

#### **ARTICLE 7 - ASSESSMENTS**

**Section 7.1: Creation of Lien and Personal Obligation of Assessments.** Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be expressed in such deed, is deemed to covenant and agree to pay to the Association, (1) regular annual or other regular periodic assessments or charges, and (2) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided. The regular and special assessments, together with interest, costs of collection and reasonable attorney's fees, shall be a charge upon the Lot and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs of collection and reasonable attorney's fees, shall also be the personal obligation of the Owner of such Lot at the time when the assessment fell due. The obligation shall remain a lien on the Lot until paid or foreclosed, but shall not be a personal obligation of successors in title, unless expressly assumed.

**Section 7.2: Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Property, operation of the Association, and related to the operation, improvement, repair and maintenance of the Common Area, the improvements situated thereon, and the Subdivision public and private roads, and the costs thereof.

**Section 7.3: Regular Annual Assessments.**

A. **Amount to be Fixed by Declarant.** Until such time as ninety percent (90%) of the Lots in the Property have been initially conveyed by Declarant, the Declarant shall fix the amount of the regular annual assessments. The Declarant shall fix the amount of the initial annual assessment beginning the first day of the month following the conveyance of the first Lot by Declarant. Thereafter, the Declarant shall fix the amount of the regular annual assessments at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Declarant. The first annual assessment for each Lot

shall be adjusted according to the number of months remaining in the calendar year.

**B. Amount to be Fixed by the Board of Directors.** At such time as ninety percent (90%) of the Lots in the Property have been initially conveyed by Declarant, the Board of Directors shall fix the amount of the regular annual assessments at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors.

**C. Exemption of Declarant.** The Declarant shall maintain the Subdivision public and private roads and other common areas until such time as the Declarant, in the Declarant's sole discretion, determines to turn over such maintenance responsibilities to the Association. The turn over of responsibility shall occur no later than the time when Declarant has conveyed ninety percent (90%) of the Lots. Prior to turning over responsibility of maintenance to the Association, the assessments provided for in this Article and this Declaration shall not be levied against Declarant with respect to unsold Lots, but shall commence as to a Lot sold on the first day of the month following the initial conveyance of the said Lot by Declarant, and not before. During the time when Declarant is maintaining the public and private roads and other common areas, the Declarant shall be responsible for the cost thereof which is in excess of the amounts provided by assessments on Lots.

**D. Certification of Status of Lots.** The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

**Section 7.4: Special Assessments.** In the event that the Board determines that the regular assessments authorized above for any given calendar year will be inadequate to meet the expenses of the Association for any reason, including, but not limited to, attorney's fees and/or litigation costs, other professional fees, or any other costs, the Board shall determine the amount necessary to defray such expenses and levy a special assessment which shall be computed in the same manner as a regular assessment. Prior to the transfer of control from the Declarant to the Association, the Declarant shall fix the amount of any special assessments. After the transfer of control from the Declarant to the Association, no special assessment shall be levied without the vote or written consent of a majority of the votes of the Members of the Association, which are present at a properly scheduled meeting to the Members or represented by Proxy. The Board shall, in its discretion, determine the schedule under which such special assessment will be paid. 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 the Association.

**Section 7.5: Notice and Quorum for Any Action Authorized Under Section 7.4 of this Article.** Written notice of any meeting called for the purpose taking any action authorized under Section 7.4 of this Article shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast thirty percent (30%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**Section 7.6: Rate of Assessment.** Assessment for all Lots shall be uniform.

**Section 7.7: Effect of Nonpayment of Assessments; Remedies of the Association.** Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Owner's Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

**Section 7.8: Enforcement of Assessments by Lien.** There is hereby created a claim of lien, with power of sale, on each and every Lot to secure payment to the Association of any and all assessments levied against any and all Owners, together with interest thereon as provided for in this Declaration, fines imposed for violation of these Covenants, or the Subdivision Rules, and all costs of collection and enforcement which may be paid or incurred by the Association in connection therewith, including reasonable attorney's fees. The Board or its duly authorized representative may file and record a Notice of Delinquent Assessment on behalf of the Association against the Lot of the defaulting Owner. A true and correct copy of the Notice shall be mailed to the Owner at the address of the Owner upon the records of the Association within five (5) working days from the date of recording by certified mail, return receipt requested. The Notice shall be executed and acknowledged by any officer of the Association and shall contain the name of the record Owner(s), a legal description of the Lot, the total amount of the delinquency and the name and address of the Trustee authorized by the Association to enforce the lien by public sale.

Upon recordation, the line claimed therein shall immediately attach and become effective in favor of the Association as a lien upon the Lot against which such assessment was levied. Such lien shall have priority over all liens or claims created subsequent to the recordation of the Notice. Any such lien may be foreclosed by appropriate action in court or in the manner provided in the Idaho Code for the foreclosure of a deed of trust with power of sale, or in any other manner provided by law. The Board is authorized to appoint its attorney, any officer or director of the Association, or any Title Company



authorized to do business in the State of Idaho, as Trustee for the purpose of conducting such power of sale foreclosure. The lien provided for herein shall be in favor of the Association and shall be for the benefit of all other Lot Owners and shall secure payment of all sums set forth in the Notice, together with all sums becoming due and payable in accordance with this Declaration after the date of recordation of said Notice. The Association shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any Lot so acquired.

Each Owner, by the acceptance and recording of a deed to a Lot in the Subdivision, hereby expressly waives any objection to the recording, enforcement and foreclosure of assessment liens in the manner set forth herein. Upon the timely curing of any default for which a Notice is recorded, the Board shall cause an officer or director of the Association to record an appropriate release of such Notice.

**Section 7.9: Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Mortgagees are not required to collect assessments. Failure to pay any assessment shall not constitute a default under an insured mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payment which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

**Section 7.10: Exempt Property.** The following property subject to this Declaration shall be exempt from the assessments created herein:

- A. All property expressly dedicated to and accepted by a local public authority;
- B. All properties owned by the Declarant or the Association; and
- C. All Lots owned by Declarant, until title is transferred to another, or until occupancy, whichever occurs first.

**Section 7.11: Effect of Annexation.** In the event that Declarant should annex other properties to the Property covered by this Declaration, the provisions of this Article shall continue to apply as long as Declarant owns any of the Lots in this or any other phase of the Subdivision.

## **ARTICLE 8 – ARCHITECTURAL CONTROL COMMITTEE**

**Section 8.1: Membership.** The Committee shall consist of not less than two (2)

members. The initial members of the Committee shall be **DeMar C. Burnett** and **Kristy L. Burnett**. Each member shall hold office until such time as such member has resigned or has been removed, or such member's successor has been appointed, as provided herein. A member of the Committee need not be an Owner.

**Section 8.2: Appointment and Removal.** Until such time as ninety percent (90%) of the Lots in the Property have been initially conveyed by Declarant, Declarant shall have the exclusive right to appoint and remove all members of the Committee, and the exclusive right to disband the Committee whereupon the Board of Directors of the Association shall assume the powers and duties of the Committee. At such time as ninety percent (90%) of the Lots in the Property have been initially conveyed by Declarant, the Board of Directors shall have the right to appoint and remove all members of the Committee, and the right to disband the Committee whereupon the Board of Directors shall assume the powers and duties of the Committee. Members of the Committee may be removed by the person or entity which appointed them at any time without cause.

**Section 8.3: Documentation Required for Architectural Approval.** No structure or improvement shall be considered or approved by the Committee until the parcel owner has submitted the following information to the Committee:

- A. Two (2) sets of plans and specifications for the proposed improvements;
- B. A site plan of the lot;
- C. Drawings showing all exterior building elevations;
- D. A schedule of exterior materials and colors to be used on the proposed improvement; and,
- E. The owner's proposed construction schedule.

**Section 8.4: Basis for Approval or Disapproval.** The Committee shall give its approval for the requested improvement only if:

- A. The owner of applicant shall have strictly complied with the requirements of Section 8.3 hereof;
- B. The Committee finds that the plans and specifications conform to the requirements of Article 3 of this Declaration, and furthermore that the owner or applicant is in compliance with all of the provisions and requirements of this Declaration in its entirety; and,
- C. The Committee, in its sole and reasonable discretion, finds that the proposed improvement is compatible with the theme of this Development and with the

purposes and intent of this Declaration as a whole as to quality of workmanship and materials, as to harmony of external design with existing structures, and as to location with respect to topography and finished grade elevations.

The Committee may waive submission of plans and specifications for approval where minor construction or a minor addition to an existing structure is involved which does not appear to materially affect the Development.

**Section 8.5: Form of Approval or Disapproval**

A. All approvals given under Section 8.4 shall be in writing. Provided, however, that as to any request for approval where all required items have been submitted, and which has not been rejected in writing within sixty (60) days from the date of final submission, such approval shall not be required and the provisions of this Section will be deemed to have been fully complied with.

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

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

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

**Section 8.6: Proceeding with Work** Upon receipt of approval from the Committee pursuant to Section 8.5 above, the Owner shall, as soon as practicable, satisfy all the conditions thereof and diligently proceed with the commencement and completion of all construction, reconstruction, refinishing, alterations and excavations authorized by such approval, said commencement to be in all cases within one (1) year from the date of such approval. If the Owner shall fail to comply with this Section, the approval given pursuant to Section 8.5 shall be deemed revoked, unless the Committee upon written request of the Owner made prior to the expiration of said one (1) year period extends the time for such commencement. No such extensions shall be granted except upon a finding by the Committee that there has been no change in the circumstances upon which the original approval was granted.

**Section 8.7: Completion of Construction** The Owner shall complete all exterior elements of the construction within one (1) year after the commencement of construction thereof; except, and only for so long, as such completion is rendered

impossible or would result in great hardship to the Owner due to strikes, fires, acts of God, unusual wintertime conditions, actual inability of the Owner to procure deliveries of necessary material, or by other forces or persons beyond the control of the Owner, and except as otherwise permitted by the Architectural Control Committee in writing. Financial inability of the Owner or his contractor to secure labor or materials or to discharge liens or attachments shall not be deemed a cause beyond his control. For the purposes of this Section 8.7, "Commencement of Construction" for new improvements is defined as the obtaining of the necessary building permits and the excavation of earth for a foundation, and for all other improvements is defined as the undertaking of any visible exterior work. Under no circumstances shall the aforesaid one (1) year completion deadline be extended for more than one (1) additional year, except upon a vote of a majority of the members who are present or represented by proxy at a duly noticed membership meeting at which a quorum is present.

**Section 8.8: Failure to Complete Construction.** Any construction which is not completed in a good and workmanlike manner, or in substantial conformity to the plans and specifications approved for it by the Committee, within the time limits provided by this Article, and where such failure is not excused by the provisions hereof, shall be deemed a nuisance, and the Board shall have the right, at its sole option, to enter upon the premises and to have such incomplete construction removed or to carry such construction forward to completion. In such case, the costs and expenses incurred in such removal or completion shall constitute a lien upon the property under the Mechanic's Lien Law of the State of Idaho, such lien to attach as of the time of the commencement of the work involved in removing or completing the incomplete construction. Such lien may be enforced in the same manner as provided for the enforcement of mechanic's liens.

**Section 8.9: Variances.** Upon written request from an Owner, the Board may grant a variance from any of the provisions of Article 3, except those limiting land use in the Subdivision to single-family residential uses, as follows:

- A. The request shall be submitted to each Board member and must explain the precise nature of and reasons for the requested variance.
- B. At least fifteen (15) days prior to the Board's review of the variance request, at the Applicant's expense, written notice of the request and the time and place at which the Board will consider the request shall be mailed, via certified mail, to all record Owners of Lots in the Subdivision;
- C. The Board's review of the request shall be open to all Owners, who shall be entitled to comment;
- D. The request shall be denied unless the Applicant establishes compelling reasons for the request. Neither the cost of compliance with these Covenants, nor the convenience of the Applicant shall in and of themselves be grounds for a variance;

E. The decision of the Board can be overruled or modified only by a vote of sixty-seven percent (67%) of those Owners who are present or represented by proxy at a meeting of the membership, scheduled for the purpose of considering such decision, at which a quorum is present.

**Section 8.10: Non-Liability of Committee Members.** Neither the Committee or any member thereof, nor its duly authorized representatives, shall be liable to the Association or to any Owner for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's duties hereunder, unless due to the willful misconduct or bad faith of the Committee or members thereof. Each Lot Owner shall be solely responsible for the ultimate compatibility of the Owner's Lot for the use intended, including, but not limited to, all matters relating to construction, engineering, water tables, soils and suitability of plans and specifications for the Lot.

**Section 8.11: Effect of Annexation.** In the event that Declarant should annex other properties to the Property covered by this Declaration, the provisions of this Article shall apply to the Property and any Annexed Property as long as Declarant owns one or more of the Lots in this or any other phase of the Subdivision.

## **ARTICLE 9 – ANNEXATION OF ADDITIONAL PROPERTIES**

**Section 9.1: Annexation.** Declarant, or its successor in interest, may develop other neighboring properties and may, in Declarant's discretion, deem it desirable to annex some or all of such other properties to the Property covered by this Declaration. The annexed properties may, at Declarant's sole discretion, be used and developed for subdivision with densities as similar as possible to the Property and with additional covenants and restrictions as restrictive or more restrictive as those for the Property. Such other properties may be annexed to the Property and brought within the provisions of this Declaration by Declarant, its successors or assigns, at any time, and from time to time, without the approval of any Owner, the Association or its Board of Directors. As such properties are developed, Declarant shall, with respect thereto, record a Supplemental Declaration which shall annex such properties to the Property and which may supplement this Declaration with such additional or different covenants, conditions, restrictions, reservations and easements as Declarant may deem appropriate for the properties or portions thereof and may delete or eliminate as to such other properties such covenants, conditions, restrictions, reservations and easements as are contained herein which Declarant deems not appropriate for the other properties.

**Section 9.2: Additional Properties.** Subject to the provisions of paragraph 9.1 above, upon the recording of a Supplemental Declaration as to other properties containing the provisions as set forth in this Section, all provisions contained in this Declaration shall apply to the added properties in the same manner as if it were originally covered by this Declaration, subject to such modification, changes and deletions as specifically provided in such Supplemental Declaration. The Grantees of any Lots located in the

other properties shall share in the payment of assessments to the Association as provided herein from and after the recordation of the first deed of a Lot within the added properties from Declarant to an individual purchaser thereof.

**Section 9.3: Procedure for Annexation.** The additions authorized under Section 9.1 above, shall be made by filing of record a Supplemental Declaration or other similar instrument with respect to the other properties or portion thereof, which shall be executed by Declarant or the Owner thereof and shall extend the general plan and scheme of this Declaration to such other properties subject to the changes, modifications, deletions and additions as are applicable to such other properties or portion thereof under such Supplemental Declaration. The filing of record of said Supplemental Declaration shall constitute and effectuate the annexation of the other properties or portions thereof described therein, and thereupon said other properties or portion thereof shall become and constitute a part of the properties, become subject to this Declaration and encompassed within the general plans and scheme of covenants, conditions, restrictions, reservations and easements and equitable servitudes contained herein as modified by such Supplemental Declaration for such other properties or portion thereof, and become subject to the functions, powers and jurisdiction of the Association and the Owners of Lots in said other properties or portion thereof shall automatically become Members of the Association. Such Supplemental Declaration may contain such additions, modifications or declarations of the covenants, conditions, restrictions, reservations or easements and equitable servitudes contained in this Declaration as may be deemed by Declarant desirable to reflect the different character, if any, of the other properties or portions thereof or as Declarant may deem appropriate in the development of the other properties or portion thereof.

## **ARTICLE 10 – GENERAL PROVISIONS**

**Section 10.1: Enforcement.** The provisions of this Declaration may be enforced by Declarant, by a Successor Declarant, by the Board, or by any Lot Owner. The prevailing party in such enforcement action shall be entitled to recover his/her fees under Section 10.3. In addition, to specific enforcement judicially, the Board shall be entitled to impose a fine for violations of this Declaration of not exceed \$500.00 per incident or \$50.00 per day, in the case of a continuing violation. The fine may be assessed only against the Owner, and only if the violator is the Owner or member of the Owner's family or a guest, invitee, lessee, contractor, subcontractor, employee or agent of the Owner. In the case of a continuing violation, the fine may not be assessed unless the Owner has failed to abate the violation within the time allowed therefore by the Board in written notice to the Owner. In the case of a single incident, the fine may not be assessed unless the Owner has received at least one (1) prior written notice from the Board that the violation may subject the Owner to fine(s). Fines imposed pursuant to this Section may be collected as provided in Sections 7.7 and 7.8 herein. Non-payment of assessments shall not subject an Owner to fines; rather, the remedy therefore shall be as provided in Article 7 herein.

**Section 10.2: Term of Declaration.** Unless amended as herein provided, all provisions covenants, conditions and restrictions and equitable servitudes contained in this Declaration shall be effective for twenty (20) years after the date upon which this Declaration was originally recorded, and, thereafter, shall be automatically extended for successive periods of ten (10) years each unless terminated by agreement of the Owners as provided for herein below.

**Section 10.3: Costs and Attorney's Fees.** In any action or proceeding under the Association documents, the party with seeks to enforce the Association documents and prevails shall be entitled to recover its costs and expenses in connection therewith, including reasonable attorney's fees and expert witness fees. "Action or proceeding" as herein stated shall include, without limitation, any arbitration, mediation, or alternative dispute resolution proceeding.

**Section 10.4: Severability.** Invalidation of any provision of this Declaration by judgment or court order shall in no way effect any other provisions which shall remain in full force and effect.

**Section 10.5: Amendment.** This Declaration may be amended at any time only by the Declarant as long as the Declarant owns ten percent (10%) or more of the unsold lot(s) in the Subdivision. At such time as the Declarant no longer owns at least ten percent (10%) of the unsold lot(s), this Declaration may be amended, from time to time, by the Owners at a meeting of the Association duly called for such purpose. In order for the Owners to amend this Declaration, a quorum of thirty percent (30%) of the Lot Owners shall be present in person or by proxy. Any amendments shall require the affirmative vote of two-thirds (2/3) of those present at such meeting in person or by proxy. All approved amendments shall be executed by the President and Secretary of the Association and filed of record with the Valley County Recorder. In the event that Declarant should annex other properties to the Property covered by this Declaration, the provisions of this section shall apply with respect to the Declarant amending this Declaration as long as Declarant owns any undeveloped lot(s) in this or any subsequent phase of the Subdivision. All amendments shall be in conformity with applicable zoning laws, ordinances and regulations in effect at the time of the adoption thereof.

**Section 10.6: Required Consent of Declarant to the Amendment.** None of the rights, reservations, or easements granted to or reserved by Declarant herein may ever be modified or amended without the prior written consent of Declarant or Declarant's successor, which consent may be withheld by Declarant for any reason whatsoever.

**Section 10.7: Governing Law.** The Association documents shall be construed and governed under the laws of the State of Idaho.

**Section 10.8: Conflicts in Documents.** In the event of any conflict between this Declaration and the Articles of Incorporation, or the Bylaws of the Association, this Declaration shall control.

**Section 10.9: Merger or Consolidation.** The Association may merge with another incorporated association to the extent permitted by law. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer and enforce the covenants, conditions and restriction established by this Declaration governing the Property together with the covenants and conditions established upon any other property, as one plan.

IN WITNESS WHEREOF, The undersigned, being the Declarant herein, has hereunto set its hand and seal this 17 day of Aug, 2005.

**KDB, LLC, an Idaho Limited Liability Company**

By: Demarcus Burnett

STATE OF IDAHO )  
 )  
 ) :ss  
 )  
County of Valley )

On this 17 day of August, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared Demarcus Burnett, known or identified to me to be a Member of the Limited Liability Company that executed the within and foregoing instrument, 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

(SEAL)



Karen L. Thurston  
Notary Public For Idaho  
Residing at CASCADE  
My Commission Expires: 7-10-09



313769

Instrument # 313769  
VALLEY COUNTY, CASCADE, IDAHO  
2008-09-27 01:23:06 No. of Pages: 3  
Recorded for: CHRISTY BURNETT  
LELAND G. HEINRICH Fee: 9.00  
Ex-Officio Recorder Deputy  
Index to: RESTRICTIVE COVENANT

**NOTICE OF ANNEXATION AND SUPPLEMENTAL  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR  
WHISPERING PINES SUBDIVISION NO. 2**

This Declaration is made effective on the 11 day of September, 2006, by, **KDB, LLC.**, an Idaho limited liability company, hereinafter referred to as "Declarant", as follows:

WHEREAS, Declarant, or its successor in interest, has previously developed and platted **Whispering Pines Subdivision No. 1**, records of Valley County, Idaho; and

WHEREAS, Declarant has previously filed of record the Declaration of Covenants, Conditions and Restrictions for **Whispering Pines Subdivision No. 1** on the 27 day of August, 2005, as Instrument No. 299237, records of Valley County, Idaho, and

WHEREAS, the Declaration of Covenants, Conditions and Restrictions for **Whispering Pines Subdivision No. 1** reserved therein a procedure whereby the Declarant may, at any time, add to the property which is covered by the Declaration, all or any portion of land then owned by the Declarant which is contiguous to the real property heretofore described in said Declaration, and further provides that any supplemental declaration containing a Notice of Annexation may provide a special procedure for amendment of any specified provision thereof, including, but not limited to, requiring a specified vote of only the owners of lots within the area subject thereto, and that the same may contain a statement of the use restrictions applicable to the annexed property, which restrictions may be the same or different from those set forth in the Declaration; and

WHEREAS, Declarant is the owner of certain real property in the County of Valley, State of Idaho, hereinafter referred to as the "property" and more particularly described as follows:

**Whispering Pines Subdivision No. 2**, located in Section 3, T. 12 N., R. 4 E., B. M., Valley County, Idaho, according to the official plat thereof, recorded as Instrument No. 313767, in Book 11 of Plats, at pages 1 through 1, inclusive, records of Valley County, Idaho.

NOW, THEREFORE, Declarant hereby declares that all of the said property constituting **Whispering Pines Subdivision No. 2**, as described herein, is and shall be held and conveyed upon and subject to the easements, conditions, covenants, restrictions and reservations set forth in the Declaration of Covenants, Conditions and Restrictions for **Whispering Pines Subdivision No. 1**, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said property. Said easements, covenants, restrictions, conditions and reservations shall constitute covenants to run with the land and shall be binding upon all persons claiming under them, and these conditions, covenants, restrictions, easements and reservations, shall inure to the benefit of and be limitations upon all future owners of said property or any interest therein.

Pursuant to Article IX of the Declaration of Covenants, Conditions and Restrictions for **Whispering Pines Subdivision No. 1**, the Declarant hereby supplements said Declaration with the following additional or different covenants, conditions, restrictions, reservations and easements, which shall be applicable only to **Whispering Pines Subdivision No. 2**:

1. Section 2.8 of said Declaration is hereby amended by the addition of the following provisions:

1.7 "**Common Area**" for Whispering Pines Subdivision No. 2 shall include the Common Areas as shown on the Subdivision plat for Whispering Pines Subdivision No. 2.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 11 day of September, 2006.

**KDB, LLC.**  
an Idaho limited liability company

By:   
**DeMar C. Burnett,**  
Member

STATE OF IDAHO            )  
  :ss  
County of Valley            )

On this 11 day of sept, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared **DeMar C. Burnett**, known or identified to me to be a Member of **KDB, LLC.**, the limited liability company that

executed the within and foregoing instrument, 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.

(SEAL)



*Karen L. Thurston*  
Notary Public, for Idaho  
Residing at: Cascade, ID  
My Commission Expires: 7-10-09

328 442

Instrument # 328442  
VALLEY COUNTY, CASCADE, IDAHO  
2008-01-15 08:47:09 No. of Pages: 4  
Recorded for : WHISPERING PINES  
ARCHIE N. BANBURY Fee: 12.00  
Ex-Officio Recorder Deputy  
Index to: RESTRICTIVE COVENANT

**NOTICE OF ANNEXATION AND SUPPLEMENTAL  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR  
WHISPERING PINES SUBDIVISION NO. 3**

This Declaration is made effective on the 15 day of January, 200<sup>8</sup>,  
by, KDB, LLC., an Idaho limited liability company, hereinafter referred to as  
"Declarant", as follows:

WHEREAS, Declarant, or its successor in interest, has previously developed and  
platted Whispering Pines Subdivision No. 1, and Whispering Pines Subdivision No. 2,  
records of Valley County, Idaho; and

WHEREAS, Declarant has previously filed of record the Declaration of  
Covenants, Conditions and Restrictions for Whispering Pines Subdivision No. 1 on the  
23 day of August, 2005, as Instrument No. 299237,  
records of Valley County, Idaho, and

WHEREAS, the Declaration of Covenants, Conditions and Restrictions for  
Whispering Pines Subdivision No. 1 reserved therein a procedure whereby the  
Declarant may, at any time, add to the property which is covered by the Declaration, all or  
any portion of land then owned by the Declarant which is contiguous to the real property  
heretofore described in said Declaration, and further provides that any supplemental  
declaration containing a Notice of Annexation may provide a special procedure for  
amendment of any specified provision thereof, including, but not limited to, requiring a  
specified vote of only the owners of lots within the area subject thereto, and that the same  
may contain a statement of the use restrictions applicable to the annexed property, which  
restrictions may be the same or different from those set forth in the Declaration; and

WHEREAS, Declarant is the owner of certain real property in the County of  
Valley, State of Idaho, hereinafter referred to as the "property" and more particularly  
described as follows:

Whispering Pines Subdivision No. 3, located in Section  
3, T. 13 N., R. 4 E., B. M., Valley County, Idaho,  
according to the official plat thereof, recorded as  
Instrument No. 328440, in Book 12 of Plats, at  
pages 15 through \_\_\_\_\_, inclusive, records  
of Valley County, Idaho.

NOW, THEREFORE, Declarant hereby declares that all of the said property constituting **Whispering Pines Subdivision No. 3**, as described herein, with the exceptions set forth below, is and shall be held and conveyed upon and subject to the easements, conditions, covenants, restrictions and reservations set forth in the Declaration of Covenants, Conditions and Restrictions for **Whispering Pines Subdivision No. 1**, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said property. Said easements, covenants, restrictions, conditions and reservations shall constitute covenants to run with the land and shall be binding upon all persons claiming under them, and these conditions, covenants, restrictions, easements and reservations, shall inure to the benefit of and be limitations upon all future owners of said property or any interest therein.

PROVIDED, HOWEVER, that Lots 3, 4 and 5, in Block 2 of **Whispering Pines Subdivision No. 3** shall be exempt from all of the provisions of the Covenants, Conditions and Restrictions described herein until such time as said Lots have been conveyed to an Owner, other than the Declarant herein or a Member or spouse of a Member of the Declarant. While said Lots are owned by the Declarant herein or a Member or spouse of a Member of the Declarant, the same may be used in connection with construction activities, including, without limitation, the placement and storage of equipment, vehicles, a travel trailer and other items related to construction activities.

Pursuant to Article IX of the Declaration of Covenants, Conditions and Restrictions for **Whispering Pines Subdivision No. 1**, the Declarant hereby supplements said Declaration with the following additional or different covenants, conditions, restrictions, reservations and easements, which shall be applicable only to **Whispering Pines Subdivision No. 2**:

1. Section 2.8 of said Declaration is hereby amended by the addition of the following provisions:

1.7 "Common Area" for **Whispering Pines Subdivision No. 3** shall include the Common Areas as shown on the Subdivision plat for **Whispering Pines Subdivision No. 3**, which have been designated as Common Area 1, Common Area 2, and Common Area 3.

2. Said Declaration is hereby amended by the addition of a new section, Section 4.5, as follows:

**Section 4.5: Common Area Water Amenities.** All common area water amenities shall remain open and unobstructed at all times and no person nor owner shall make any changes or alterations with respect thereto nor cause or allow any obstructions, diversions or other interference with the continued free flowing of the water courses as originally constructed or as subsequently altered by the Association.

3. Said Declaration is hereby amended by the addition of a new sub-section, Subsection E. to Section 3.30, as follows:

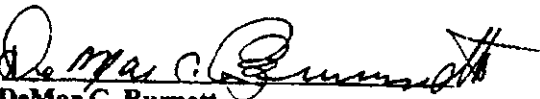
**E. Common Sewage Disposal System.** The following lots in Whispering Pines Subdivision No. 3 shall each have an individual septic tank and sewer lines upon the respective lots, but shall share a common field drain system, which shall be located within Common Area 2:

<sup>1 and 2</sup> Lots 7, 8, and 13 Block <sup>1</sup> 2, Whispering Pines Subdivision No. 3, located in Section 3, T. 13 N. N., R. 4 E., B. M., Valley County, Idaho, according to the official plat thereof, recorded as Instrument No. 328 440, in Book 12 of Plats, at pages 15 through \_\_\_\_\_, inclusive, records of Valley County, Idaho.

The Owners of said Lots shall jointly be responsible for the repair, maintenance, replacement and operation of the common drain lines and the common field drain serving all of said lots. The enforcement provisions of Article 7 herein shall be available to any of said Lot Owners in order to enforce the obligation of any Lot Owners responsible for sharing in said costs and expenses. General maintenance and operation of Common Area 2 shall be the responsibility of the Association.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 12 day of December 2007.

**KDB, LLC.**  
an Idaho limited liability company

By:   
DeMar C. Burnett,  
Member

STATE OF IDAHO            )  
  :ss  
County of Valley         )

On this 12 day of December 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared DeMar C. Burnett, known or identified to me to be a Member of **KDB, LLC.**, the limited liability company that

executed the within and foregoing instrument, 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.

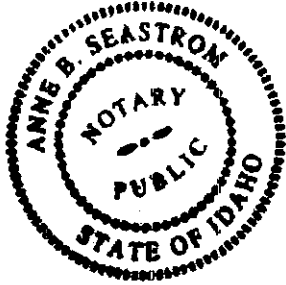


Notary Public for Idaho

Residing at: Cracall Id

My Commission Expires: 11-30-12

(SEAL)



Instrument # 383165

VALLEY COUNTY, CASCADE, IDAHO

2-3-2014 12:29:13 No. of Pages: 2

Recorded for : DEMAR BURNETT

DOUGLAS A. MILLER

Fee: \$3.00

Ex-Officio Recorder Deputy

Index to: RESTRICTIVE COVENANT



**AMENDMENT TO**  
**NOTICE OF ANNEXATION AND SUPPLEMENTAL**  
**DECLARATION OF COVENANTS,**  
**CONDITIONS AND RESTRICTIONS**  
**FOR**  
**WHISPERING PINES SUBDIVISION NO. 3**

Pursuant to the provisions of Section 10.5 of the Declaration of Covenants, Conditions and Restrictions and Easements for Whispering Pines Subdivisions No.'s 1, 2 and 3, the following amendment is hereby adopted on the date hereinafter set forth:

WHEREAS, KDB, LLC, an Idaho limited liability company, as Declarant, has previously filed of record a Notice of Annexation and Supplement Declarations of Covenants, Conditions and Restrictions for Whispering Pines Subdivision No. 3, on the 15<sup>th</sup> day of January, 2008, as Instrument No. 328442, records of Valley County, Idaho; and,

WHEREAS, Declarant or its successor(s) in interest, are the owners of at least ten percent (10%) or more of the unsold lots in Whispering Pines Subdivision No. 3 and are therefore entitled to amend said Supplemental Declaration,

NOW, THEREFORE, pursuant to the provisions of Section 10.5 of said Declaration, Section 7.6 of said Declaration is hereby amended, to read in its entirety, as follows:

**Section 7.6: Rate of Assessments.** Assessments for all Lots in Whispering Pines Subdivision No. 3 shall be uniform, except as provided below:

A. The owners of the following Lots in Whispering Pines Subdivision No. 3 shall be subject to separate assessments for the costs of the operation, maintenance, repair and replacement of two (2) water pumps which provide for pumping water into ponds or other water amenities providing special aesthetic benefits to said Lots and which do not similarly benefit the remainder of the subdivisions directly. The water pumps shall be located on Lot 2, Block 1 and the common area on Lot 14. The costs and expenses shall be assessed against said Lots on an equal basis and shall be in addition to all other assessments provided for herein. The Lots subject to said assessments are as follows:

**Lots 2, 3, and 4, Block 1; and Lots 6, 7, 8, 9, 11,  
12, 13, and 14, Block 3, all within Whispering  
Pines Subdivision No. 3, Valley County, Idaho.**



IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 3 day of February, 2014.

**KDB, LLC.**  
an Idaho limited liability company

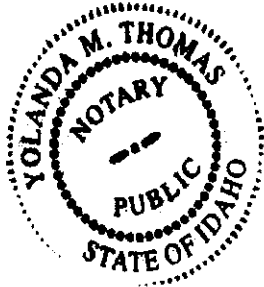
By DeMar C. Burnett  
**DeMar C. Burnett,**  
Member

STATE OF IDAHO            )  
  :SS  
County of Valley        )

On this 3 day of February, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared **DeMar C. Burnett**, known or identified to me to be a Member of **KDB, LLC.**, the limited liability company that executed the within and foregoing instrument, 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.

(SEAL)



Yolanda M. Thomas  
Notary Public for Idaho  
Residing at: Cascade, Id  
My Commission Expires: 2/28/2017

**AMENDMENT TO**  
**NOTICE OF ANNEXATION AND SUPPLEMENTAL**  
**DECLARATION OF COVENANTS,**  
**CONDITIONS AND RESTRICTIONS**  
**FOR**  
**WHISPERING PINES SUBDIVISION NO. 3**

Pursuant to the provisions of Section 10.5 of the Declaration of Covenants, Conditions and Restrictions and Easements for Whispering Pines Subdivisions No.'s 1, 2 and 3, the following amendment is hereby adopted on the date hereinafter set forth:

WHEREAS, KDB, LLC, an Idaho limited liability company, as Declarant, has previously filed of record a Notice of Annexation and Supplement Declarations of Covenants, Conditions and Restrictions for Whispering Pines Subdivision No. 3, on the 15<sup>th</sup> day of January, 2008, as Instrument No. 328442, records of Valley County, Idaho; and,

WHEREAS, Declarant or its successor(s) in interest, are the owners of at least ten percent (10%) or more of the unsold lots in Whispering Pines Subdivision No. 3 and are therefore entitled to amend said Supplemental Declaration,

NOW, THEREFORE, pursuant to the provisions of Section 10.5 of said Declaration, Section 7.6 of said Declaration is hereby amended, to read in its entirety, as follows:

**Section 7.6: Rate of Assessments.** Assessments for all Lots in Whispering Pines Subdivision No. 3 shall be uniform, except as provided below:

A. The owners of the following Lots in Whispering Pines Subdivision No. 3 shall be subject to separate assessments for the costs of the operation, maintenance, repair and replacement of two (2) water pumps which provide for pumping water into ponds or other water amenities providing special aesthetic benefits to said Lots and which do not similarly benefit the remainder of the subdivisions directly. The water pumps shall be located on Lot 2, Block 1 and the common area on Lot 14. The costs and expenses shall be assessed against said Lots on an equal basis and shall be in addition to all other assessments provided for herein. The Lots subject to said assessments are as follows:

**Lots 2, 3, and 4, Block 1; and Lots 6, 7, 8, 9, 11,  
12, 13, and 14, Block 3, all within Whispering  
Pines Subdivision No. 3, Valley County, Idaho.**

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 3 day of February, 2014.

**KDB, LLC.**  
an Idaho limited liability company

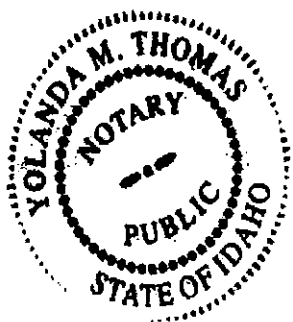
By DeMar C. Burnett  
**DeMar C. Burnett,**  
Member

STATE OF IDAHO )  
 )  
 ) :ss  
County of Valley )

On this 3 day of February, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared **DeMar C. Burnett**, known or identified to me to be a Member of **KDB, LLC.**, the limited liability company that executed the within and foregoing instrument, 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.

(SEAL)



Yolanda M Thomas  
Notary Public for Idaho  
Residing at: Cascade, Id  
My Commission Expires: 2/28/2017

# ACCOMMODATION

Instrument # 426381  
VALLEY COUNTY, CASCADE, IDAHO  
01-23-2020 15:22:47 No. of Pages: 3  
Recorded for: FIRST AMERICAN TITLE - MCCALL  
DOUGLAS A. MILLER Fee: \$16.00  
Ex-Officio Recorder Deputy: CW  
Electronically Recorded by Simplifile

## AMENDMENTS TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR WHISPERING PINES SUBDIVISIONS NOS. 1, 2 AND 3

Pursuant to the provisions of Section 10.5 of the Declaration of Covenants, Conditions and Restrictions and Easements for Whispering Pines Subdivisions Numbers 1, 2 and 3 (hereinafter the "Declaration,") the following amendments are hereby adopted on the date hereinafter set forth:

WHEREAS, KDB, LLC, an Idaho limited liability company, has previously filed of record a Declaration of Covenants, Conditions, Restrictions and Easements for Whispering Pines Subdivision No. 1 on August 8, 2005 as Instrument No. 299237, and a Notice of Annexation and Supplemental Declaration of Covenants, Conditions, Restrictions and Easements for Whispering Pines Subdivision No. 2 on September 27, 2006 as Instrument No. 313769 and a Notice of Annexation and Supplemental Declaration of Covenants, Conditions, Restrictions and Easements for Whispering Pines Subdivision No. 3 on January 15, 2008 as Instrument No. 328442, and an Amendment to Notice of Annexation and Supplemental Declaration of Covenants, Conditions, Restrictions and Easements for Whispering Pines Subdivision No. 3 on February 3, 2014 as Instrument No. 383165, records of Valley County, Idaho.

WHEREAS, DeMar C., Burnett, Sharon J. Burnett, David C. Dickerson and Kristy Burnett are the successors in interest to KDB, LLC, pursuant to Section 2.10 of the Declaration, and are collectively the owners of at least ten percent (10%) or more of the unsold lots in Whispering Pines Subdivision Nos. 1, 2 and 3, and are therefore entitled to amend said Declaration pursuant to said Section 10.5 thereof.

NOW, THEREFORE, pursuant to the provisions of Section 10.5 of said Declaration, said Declaration is hereby amended as follows:

1. Section 3.5 is hereby amended to read in its entirety as follows:

**Section 3.5: Temporary Structures.** No structure of a temporary character, trailer, basement, tent, shack, garage, barn, yurt or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently. During the period of construction as defined and limited by Section 8.5, an owner shall be entitled to the use of a tent, trailer or motor home or other recreational vehicle as temporary living accommodations. Visitors and guests may park a camper, motor home or trailer on a Lot for a reasonable term, not to exceed fourteen (14) days consecutive duration, with a minimum of three (3) days between periods, nor more than a total of sixty (60) days each calendar year. In addition, an owner shall be entitled to utilize a recreational vehicle upon the owner's Lot during the months of April through October in each calendar year.