

1269

6-1

605806

DECLARATION OF BUILDING AND USE RESTRICTIONS
AND PROTECTIVE COVENANTS

ARTICLE I

DECLARATION

KNOW ALL MEN BY THESE PRESENTS:

THAT, WHEREAS, the undersigned, being the owners of the following described real property located in Bannock County, State of Idaho, and more particularly described as follows:

All of the South half of the Southwest quarter of Section 5, T10S, R38E, Boise Meridian. Contains 80 acres ±.

All of the South half of the Southwest quarter of Section 7; together with the Southeast quarter of said Section 7, T10S, R38E, Boise Meridian. Contains 240 acres ±.

All of the Northwest quarter of Section 8, T10S, R38E, Boise Meridian, excepting therefrom: Beginning at the center quarter corner of said section; thence North 89°54' West along the latitudinal center line of said section 1,484.69 ft., more or less, thence North 26°49'24" East 296.53 ft., thence North 27°15'24" East 275.99 ft., thence North 47°02'04" East, 300.43 ft., thence North 67°35'37" East 584.70 ft., thence North 55°25'52" East, 560.20 ft., more or less, to the meridional centerline of said section, thence South 0°07'37" East 1,258.06 ft., more or less to the true point of beginning. A parcel of land situated in the Northwest quarter of the Southwest quarter of Section 8, T10S, R38E, Boise Meridian, Bannock County, Idaho, more particularly described as follows: Commencing at the Southwest corner of said section, said point being a US Glo Brass Cap Monument dated 1913; thence North 0°04' West along the West line of said section 1,682.74 ft., more or less, to the true point of beginning; thence continuing North 0°04' West along said West line 957.25 ft., more or less, to the West quarter corner of said section; thence South 89°54' East along the latitudinal centerline of said section, 1,154.53 ft.,

1270

6-2

605806

thence South 26°49'24" West 257.49 ft., thence South 53°39'18" West, 557.33 ft., thence North 36°20'39" West 97.28 ft. to the centerline of Smith Canyon Road, thence South 48°26'09" West along said centerline 97.81 ft., thence South 37°40'38" West along said centerline 114.93 ft., thence South 54°19'02" West along said centerline 242.86 ft., thence South 37°57'26" West along said centerline 208.96 ft., thence South 79°37'46" West along said centerline 62.47 ft., more or less, to the true point of beginning. Total contains 147.4 acres ±.

All of Section 17, T10S, R38E, Boise Meridian; except the East half of the Northeast quarter and except the Southwest quarter of the Southwest quarter. Contains 520 acres ±.

All of the East half of Section 18, T10S, R38E, Boise Meridian, which lies East of the West line of the County Road which crosses said section in a North-South direction. Contains 270 acres ±.

All of Section 19, T10S, R38E, Boise Meridian; except that part lying within Lava Ranch Subdivision Phase 1, and excepting the Northwest quarter of the Northwest quarter. Contains 5 acres ±.

All of Section 20, T10S, R38E, Boise Meridian; except that part lying within Lava Ranch Subdivision Phase 1. Contains 591 acres ±.

All of Section 29, T10S, R38E, Boise Meridian; except the South half of the Southeast quarter, except the South half of the Southwest quarter and except the Northwest quarter of the Southwest quarter. Contains 440 acres ±.

All of Section 30, T10S, R38E, Boise Meridian, except the Southwest quarter of the Southwest quarter and excepting that part lying within Lava Ranch Subdivision Phase 1. Contains 595 acres ±.

The West half of the Northwest quarter of Section 24, T10S, R37E, Boise Meridian. Contains 80 acres ±.

Total 2968.4 acres ±.

do hereby establish the nature of the use and enjoyment of all lots in Lava Ranch Subdivisions, as described above, and do declare that all conveyances of said lots shall be made subject to the following conditions, restrictions and stipulations, as follows:

1271

6-3

605806

ARTICLE II

RECREATIONAL HOMESITE AREA COVENANTS

1. **LAND USE:** This land is intended primarily for construction of vacation homes and recreational use incidental thereto. All common areas within the subdivisions are private and neither the recording of this plat or any act of the undersigned with respect to the plat shall be construed as a dedication to the public, but, rather, all common areas and any other amenities shall be for the use and enjoyment of members of the Lava Ranch Property Owners' Association, Inc. and to the guests of such members of the Association or other residents of Lava Ranch who qualify for the use and enjoyment of the common areas and facilities. The common areas within the subdivisions shall be conveyed to the Lava Ranch Property Owner's Association which shall be responsible for the permanent maintenance of the common areas.
2. **EASEMENT:** Easements for installation and maintenance of utilities, drainage facilities and ingress and egress are reserved as shown upon the recorded plat of the above subdivisions.
3. **BUILDING TYPE:** No more than one detached single-family dwelling, not less than 600 square feet in ground floor living area and not to exceed two and one-half stories in height, and all buildings and structures incidental to single-family dwelling, shall be permitted on any lot. All dwellings must be completed within 24 months of commencement of construction. This does not restrict the provisions of paragraph 9, infra. All fences shall be erected of new material which enhance the appearance of the landscape. Rail or split-rail type fences normally associated with ranch settings are approved. All other types of fences require the prior approval of the Board of Trustees prior to their being installed. All buildings shall be set back at least one hundred (100) feet from property lines or recorded easements. Slopes exceeding 25% within the boundaries of any lot shall be and are hereby designated as non-building areas.
4. **GARBAGE AND REFUSE DISPOSAL:** No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, rubbish or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. Each lot and its abutting street are to be kept free of trash, weeds and other refuse by the lot owner. No unsightly

1272

605806

6-4

materials or other objects are to be stored on any lot in view of the general public. No activity which may become an annoyance or a nuisance to the subdivisions will be allowed.

5. TEMPORARY STRUCTURES; VEHICLES: Temporary structures, including trailers, tents, campers and mobile homes, may be located on any lot from May 1st to December 1st of each calendar year. The use of snomobiles, motorcycles, motorbikes, 4-wheel drive vehicles, etc. will be permitted only in areas designated by the directors of the Lava Ranch Property Owners' Association.

6. SIGNS: No sign of any kind shall be displayed to the public view on any lot.

7. TIMBER REMOVAL: No tree or trees shall be removed from any lot without prior written approval of the Lava Ranch Property Owners' Association.

8. COMMERCIAL ENTERPRISE: No commercial business shall be permitted on any lot in the subdivisions without prior written approval of the Lava Ranch Property Owners' Association.

9. DIVISION OF LOTS: If any lot owner should desire to divide his property into smaller parcels, it must be approved by the Lava Ranch Property Owners' Association and applicable county and state agencies.

ARTICLE III

GENERAL PROVISIONS

1. ARCHITECTURAL CONTROL: No building shall be erected, placed or altered on any lot without approval of the Board of Trustees of Lava Ranch Property Owners' Association, Inc. No fence or wall shall be erected, placed or altered on any lot, and no mobile home will be allowed upon any lot without the approval of the Board of Trustees. The Board of Trustees' approval or disapproval, as required in these covenants, shall be in writing within thirty (30) days after plans and specifications have been submitted.

1273

6-5

605806

2. ENFORCEMENT: These Covenants shall be binding and inure to the benefit of all present and future owners of the property and they may be enforced by the Board of Trustees or by appropriate action in a court of law. If it becomes necessary for an owner or the Lava Ranch Property Owners' Association to enforce these Covenants, the party in violation of these Covenants shall be responsible for paying all costs of enforcement, including reasonable attorneys' fees incurred by the enforcing party.

3. TERMS OF COVENANTS: These Covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty (20) years from the date these Covenants are recorded, after which time said Covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by two-thirds (2/3) of the then owners of the lots has been recorded, agreeing to change said Covenants in whole or in part, either during or after the initial term provided for in this paragraph.

4. SEVERABILITY: Invalidation of any one of these Covenants by judgment or court order shall in no wise affect any of the other provisions which all remain in full force and effect.

5. ASSIGNMENT OF POWERS: Any and all rights and powers of the Grantor herein contained may be delegated, transferred or assigned. Whenever the Grantor is used herein, it includes assigns or successors in interest of the Grantor.

6. MEMBERSHIP IN PROPERTY OWNERS' ASSOCIATION: Membership in the Lava Ranch Property Owners' Association, Inc., an Idaho non-profit corporation, is appurtenant to and shall be a mandatory incident of ownership of any lot in the Lava Ranch subdivisions. The general purpose of the Association is to further promote the community welfare of property owners in the subdivisions. The Association shall be responsible for the improvement, maintenance, upkeep and repair, and the establishment and enforcement of rules and regulations concerning the operation and use of all common areas and recreational facilities and other properties within the subdivisions as it may from time to time own, and for the payment of liability insurance premiums and taxes incident to the ownership and operation of common areas and recreational facilities. The Association shall specifically assume responsibility for private road improvement, maintenance and snow removal which shall be and remain the obligation of the Association. The Association shall also organize a volunteer fire suppression team,

1274

605806

6-6

the expenses of which will be defrayed by the Association. Equipment donated by the developer for use by said team shall be maintained by the Association. The Association shall have all the powers that are set out in its Articles of Incorporation and all other powers that belong to it by operation of law, including, but not limited to, the power to assess and collect from every member of the Association a uniform monthly charge per single-family recreational lot within the subdivisions which if not paid when due shall bear interest from the due date. PROVIDED, HOWEVER, the unsold lots held by the developer, Lava Ranch Partnership, shall not be liable for assessments or charges in excess of an amount required to pay a proportionate share of property taxes attributable to the common areas held by the Association for the benefit of lot owners. The Association may publish the name of a delinquent member and may file notice that it is the owner of a lien to secure payment of the unpaid charge plus costs and reasonable attorneys' fees, which lien shall encumber the member's lot or lots and may be foreclosed in accordance with the laws of the State of Idaho. The board of directors of the Association shall fix the amount of the annual charge per lot, which may vary from year to year depending on the amount required to meet the obligations of the Property Owners' Association.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 12 day of July, 1978.

LAVA RANCH PARTNERSHIP

By Dennis F. Bullock
Dennis F. Bullock
General Partner

By Robert Craig Hansen
Robert Craig Hansen
General Partner

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

NOTARY SEAL



On this 12 day of July, 1978, personally appeared before me Dennis F. Bullock and Robert Craig Hansen, the signers of the within instrument, who duly acknowledged to me that they executed the same.

My Commission Expires:
Feb 2, 1981

Laurel O Hill
NOTARY PUBLIC
Residing at Salt Lake City, Utah

605806

NO. _____
RECORDED AT REQUEST OF
Nathal B. Hill
AUG 7 11 PH '78
OFFICIAL RECORD BK. NO. 323
BANKS COUNTY, IDAHO
THORIKSEN, RECORDER
\$6.00