

227298

**STATEMENT OF PROTECTIVE COVENANTS, CONDITIONS, AND
RESTRICTIONS
with
EASEMENTS AND ROAD MAINTENANCE AGREEMENTS**

Elk Mountain Subdivision
By Balance Builders, Inc
Located in SW1/4 and Government Lot 2
01-61N-R1E, B.M., Boundary County, Idaho

DEVELOPERS STATEMENT

It is the sole purpose of these CC&R's to establish uniform guidelines and standards for all property owners which serve to protect and ensure the quality of life and property values in the Subject area.

WITNESSETH:

WHEREAS, Declarant is the owner or leinholder of all the property located in Boundary County, State of Idaho, most particularly described as:

Elk Mountain Subdivision located in SW1/4 of the NE1/4 and Government Lot Two (2) in Section One (1), Township Sixty-one (61) North, Range One (1) East, B.M., Boundary County, Idaho, according to the Plat thereof recorded the 7th day of July, 2006 as Instrument No. 227297, records of Boundary County, Idaho.

NOW, THEREFORE, Declarant hereby declares that all the property described above shall be held, sold, and conveyed, subject to the herein easement with road maintenance agreement, restrictive covenants and conditions, all of which are for the purpose of enhancing and protecting the desirability, and attractiveness of the real property. These easements, restrictions, covenants, and conditions shall run with the real property and shall be binding on all parties having or who will hereafter acquire any right, title, or interest in the above described properties or any part thereof and shall inure to the benefit of each owner thereof.

EASEMENTS, MAINTENANCE, SNOW REMOVAL, & IMPROVEMENTS

- EASEMENTS.** There is hereby granted, reserved and dedicated an easement over and across that road as shown on the plat to serve each of the lots that join said road and easement.

Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities. The easement area of each lot and all improvements upon it shall be maintained continuously by the owner of the

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lot in accordance with the terms herein, except for those improvements for which a public authority of utility company is responsible. All electric power lines, telephone lines, and cable/satellite television lines, as well as water, sewer and natural gas lines if any are to be buried underground.

2. **ROAD AND UTILITY EASEMENT MAINTENANCE.** The road will be maintained by the property owners in a manner to minimize and/or avoid erosion. Water bars, drainage ditches and culverts shall be installed and/or constructed as necessary and appropriate to control erosion, dust and speed. All snow removal will be included in the road maintenance as well.

Each of the property owners shall share equally with other users in the care and maintenance of the road as located upon the easement.

In the event any property owner whose property is served by this easement shall fail or refuse to pay their share of maintenance and repairs, one or more other property owners may elect to pay such costs or provide labor and materials for such and recover from the defaulting property owner their share of the cost thereof. If it is necessary to bring suit for such the prevailing party shall be entitled to recover attorney fees and costs. The costs of such maintenance and improvements shall constitute a lien upon the defaulting party's property as provided by Chapter 5 and/or 8 Title 45 Idaho Code and enforceable as provided therein.

The utilities shall be installed, maintained and used in such manner as to minimize disruption or interference with other authorized uses. Trees and vegetation shall be cleared as necessary and excavation when necessary will be completed with due diligence to minimize interruption of other uses, restoring the ground surface condition as nearly as reasonably possible to the condition prior to excavation. Along the road the easement shall be maintained to accommodate snow removal and drainage, any obstruction placed upon the easement, which interferes with such, may be removed temporarily or permanently as is necessary to facilitate the purposes of the easement.

3. **SNOW REMOVAL.** As addressed in section 2 preceding, snow removal will be shared between all property owners.
4. **INDEMNIFY AND HOLD HARMLESS.** The holders of the easement agree to waive any and all claims against the holders of the servient estates for their ordinary negligence and the condition of the easement to the extent it crosses their property. They do, likewise, agree to indemnify and hold harmless said holders of the servient estates against any and all claims made by their invitees.
5. **LOT SIX (6) EXCEPTION.** Lot Six (6) is excepted from the preceding road and utility easement maintenance requirements. Lot Six (6) has separate access and by reason of the terrain on and between Lots Five (5), Six (6) and

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Seven (7), Lot Six (6) cannot benefit from access to the remaining lots, which also cannot benefit from the access serving Lot Six (6).

STATEMENT OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS

STRUCTURE LIMITATION

1. **LAND USE AND BUILDING TYPE.** Lots shall be used for single family residential purposes. No building shall be commenced, erected, altered, placed or permitted to remain on any lot other than one detached single family dwelling, a private garage or shop not to be used in any way for commercial purposes, a detached barn/stall for livestock permitted herein, and any other related buildings so long as said buildings match exterior materials of the residential house. **ROOF DOES NOT APPLY.**
2. **ARCHITECTURAL CONTROL.** No buildings or fences shall be commenced, erected, placed, or altered on any lot until the construction plans for said fence or building, and construction specifications for said fence or building has been approved in writing by the Home Owners Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location of the building. Location as to topography and setbacks in relation to other building sites in the development will be considered by the Home Owners Committee when reviewing the construction plans and prior to written approval. Site plans for construction must be submitted to the Home Owners Committee prior to building.
3. **DWELLING QUALITY AND SIZE.** No dwelling shall be permitted on any lot containing less than 2400 square feet for a single story building, exclusive of open porches, carports, and or garages without majority approval of the other owners. Except as herein provided, no manufactured or modular dwelling of any kind will be permitted at any time. Double-wide or triple wide manufacture dwellings shall be permitted only upon approval of style and type, and will only be considered with a minimum roof pitch of 4/12 and with cedar lap or log style siding.
4. **BUILDING LOCATION.** No building shall be located on any lot nearer to the further of the property line or nearer to the street easement line than a minimum of 40' from any said line, and shall not be situated so as to obstruct or interfere with a view from the windows of the adjacent building. Specifically the buildings shall be located on each site to complement each lot and not to detract from other building sites where a view is in question. The Homeowner's Committee shall review any proposed building location and shall not approve or deny a building location without first having notified the

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adjacent property owners on either side and directly across the street of the building location and giving each the opportunity to be heard.

No building shall be commenced, erected, placed on a reserved easement as it appears on the final Plat of the Paradise Valley Development project on file with the Recorder's office of Boundary County, State of Idaho.

5. **TEMPORARY STRUCTURES.** No structure of a temporary nature, 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 construction of any residence, it shall be permissible for the builder or contractor to place a temporary office and tool shed on the premises which shall be removed immediately following the completion of the building.
6. **CONSTRUCTION TIME LIMITATIONS.** All construction of a residential nature must be completed within 12 months from commencement of the construction.

NUISANCES AND MAINTENANCE

1. **NUISANCES.** No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood.
2. **MAINTENANCE.** At all times the lot owner shall keep his total lot in a clean and tidy manner, at all times promoting the general aesthetic qualities of the project. This condition shall also apply to the owners of the undeveloped lots. Specifically this applies to the fact that no vehicles of any type that are not in working condition be kept on the property. The Homeowners Committee may consider and grant or deny requests to have certain vehicles on property that are not in working condition which are being used for a legitimate hobby, i.e. Building a boat, classic car, or a hot rod or other similar hobbies and may place limitations and/or conditions upon grants of permission to maintain the aesthetic qualities of the development.

PETS

1. **HOUSEHOLD PETS.** Dog, cats, and any other household pet will be at land owner's discretion. They must not be kept to breed or be used for any commercial purpose and so long as care given such animals is accomplished in such a way as to not constitute a source of annoyance to any adjoining property owner, not as to interfere with the existing wild game traffic in the

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area. All dogs must be kept in a kennel or on a leash so as not to run astray at any time, and to protect existing wildlife in the area.

1. **LIVESTOCK AND POULTRY.** Two (2) livestock or poultry of any kind, may be raised, bred, or kept on any lot. All animals **must** have a barn or other protective structure that has been approved by the Homeowner Committee that is built to specifications that are in harmony with approved residential dwellings.

SIGNAGE

1. **SIGNS.** No sign of any kind shall be displayed to the public view on any lot except one (1) professional sign of not more than two (2) square feet, or sign of not more than ten (10) square feet for advertising the property for sale, rent, or signs used by a builder to advertise the property during the construction and sales period.

COMMERCIAL

1. **RESTRICTIONS.** No manufacturing or commercial enterprises shall be conducted or maintained upon or in connection with any residential lot or lots, nor shall said lot or lots, in any way be used for other than strictly residential purposes except a home business may be maintained in the main dwelling upon specific approval of the Homeowner Committee in each case, and only if said business does not require outside signage of any kind.
2. **LIMITS.** Traffic for in home businesses will be limited. The Homeowners Committee shall agree on the amount of traffic allowed and additional charges may be assessed to the homeowner for maintenance and repair due to extra traffic for business purpose if approved.

GARBAGE AND REFUSE DISPOSAL

1. **GARBAGE.** No lot shall be used or maintained as a dumping site for rubbish, trash of any type, non-operable cars, non-working vehicles or any other type of rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All garbage and refuse must be kept in "bear proof" containers. All homeowners are responsible for transporting their own garbage and refuse to the appropriate disposal sites.
3. **REFUSE.** Refuse piles or other unsightly objects or material shall not be allowed to be placed or remain upon the premises or easements. The

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Homeowners Committee or its agents shall have the right to enter upon said lands and remove such refuse piles or other unsightly objects or materials at the expense of the owner and such entry shall not be deemed a trespass, and owner shall be liable for costs incurred relative to this action.

SEWAGE DISPOSAL

1. **SEWAGE.** All lot owners are responsible for the installation and maintenance of their own individual septic system in compliance with applicable government rules and regulations. Should a public sewer system come into the area, all individual lot owners are required to connect to said public system at their own cost.

FENCING PROPERTY

1. **FENCING.** Any fencing that is erected or situated on any lot shall be constructed of post and rail materials only. Excepting fencing to protect gardens from wildlife, no fences shall be erected in the subdivision that shall obstruct the pathway of wild game in the area. No fence, wall, hedge, shrub, or planting shall be erected as to obstruct the view of adjacent property owners except that owners shall have no control over the natural growth of the existing plantings or natural vegetation.

PARKING

1. **PARKING OF LARGE VEHICLES.** No large trucks or buses exceeding 26,000 pounds gross vehicle weight are to be stored or parked on any lot except in a garage, carport, and shop or within an approved parking area. At no time shall any vehicle be parked on the main road in this project.
2. **TRAILER/BOAT PARKING.** Travel trailers, camping trailers, motor homes, horse trailers, utility or recreational vehicle trailers, boats of any kind nor houseboats shall not exceed the quantity of three (3) per household and shall not obstruct or interfere with views from any adjacent properties. Any and all trailers placed upon properties shall be operable and in good condition as defined by Idaho vehicle code and statutes. None of the above shall ever be parked on the main road in this project.

FIREARMS

NO DISCHARGE OF FIREARMS IS ALLOWED IN THIS PROJECT.

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SUBDIVISION

1. **FUTURE SUBDIVISION.** Any future subdivision of any lot shall be limited to one (1) parcel limited to no less than 1.5 acres and subject to approval by the Planning and Zoning Commission of Boundary County and any and all applicable governmental ordinances, laws and regulations at the time of subdivision. Any future subdivision of any lot, shall also be subject to the prior approval of the Home Owner Committee, and may not commence for at least 5 years after date of first recording of this statement.

HOMEOWNERS' COMMITTEE

1. **COMMITTEE.** A Homeowners' Committee consisting of one of the owners of each parcel shall have authority to administer and enforce the terms of this agreement. This shall not limit individual property owners from enforcement by all lawful means.

The Committee may conduct business with a quorum of fifty (50) percent plus one (1) member present.

An organizational meeting and all further meetings of the Committee may be convened by giving written notice by any property owner either personally served upon the other property owners or by U.S. mail, certified, return receipt requested, addressed to the owner at the address maintained by the Boundary County Treasure for sending tax notices to the owner of record. Notice shall state the time and place that the meeting is to be held and the business to be considered at said meeting. The notice requirement may be waived and business conducted by the unanimous consent of the owners of all parcels of the real property. Unless waived by unanimous agreement, notice shall be given not less than fifteen days prior to the meeting. Notice shall contain the time and place the meeting will be conducted and a summary of the anticipated agenda, or without prior notice only with the unanimous consent of the members, topics may be added to the agenda. Meeting of the Homeowners Committee may by unanimous consent of the members be conducted outside Boundary County and members may participate by telephone or electronically. The Committee shall select a chairperson and a secretary or record keeper and may establish such further and additional rules as deemed necessary to conduct the business of the Committee.

ENFORCEMENT

1. **ENFORCEMENT.** The conditions, restrictions, stipulation, agreements and covenants contained herein shall not be waived, abandoned, terminated or amended except as herein provided. If any person shall violate or threaten to violate any of the provisions of this instrument, it shall be lawful for the Homeowners Committee or any person owning land in the subdivision to institute

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proceedings at law or in equity to enforce the provisions of this instrument to restrain the person violating or threatening to violate them, and to recover damages, actual and punitive, together with reasonable attorney's fee for such violation.

WILDERNESS TRAIL AND WILDLIFE

1. **WILDERNESS TRAIL AND WILDLIFE COVENANT.** On the plat there is designated a trail. Said trail is so established to provide a natural wilderness environment for the enjoyment and benefit of all of the owners of the lots and their invitees. The trail generally follows the contour of a steep and underdeveloped timbered area, which at the time of establishment of the plat provides a natural habitat for wildlife and a place for quiet recreational use and relaxation.
2. **EASEMENT DESIGNATION OF WILDERNESS TRAIL.** To insure the continued maintenance and benefit of this area an easement is hereby reserved and dedicated over and along the hiking trail for the use and benefit of the owners of the lots and their invitees. The trail shall be maintained as a foot path for hiking. The foot path may be further developed by the Homeowners Committee to a maximum width of six (6) feet. Hikers may digress from the path a distance of not more than fifty (50) Feet on either side thereof or less in those places where the path is less than fifty (50) feet of residence outbuildings and the lawns and gardens incidental thereto.
3. **MAINTENANCE OF WILDERNESS TRAIL.** The timbered area on the side of the hill shall be maintained in the natural state and no logging of the timber shall occur, except as such will be necessary to provide fire protection or to remove dead and dying timber. Except as necessary to protect immediate threat to the health and safety of persons or property, all logging shall be first approved by the Homeowners Committee. Any logging shall be done using methods which will minimize impact on the soil, erosion, remaining vegetation and in accordance with the highest and best practices available in Boundary County, Idaho.
4. **HOMEOWNERS COMMITTEE'S MANAGEMENT OF WILDERNESS TRAIL.** The Homeowners Committee may establish and enforce reasonable rules and requirements for the use of the trails and immediate area on either side. The Homeowners Committee shall have authority to assess lot owners the reasonable cost of maintenance and improvement of the trail and adjacent areas.

AMENDMENTS OR TERMINATION

1. **AMENDEMENTS OR TERMINATION.** The conditions, restrictions, stipulations, agreements and covenants contained herein may be amended or terminated by the written agreement of the owners of all parcels subject hereto and recorded in the records of Boundary County, Idaho. Such amendments or termination is only effective upon recording the signed original or originals in the records of Boundary County, Idaho.

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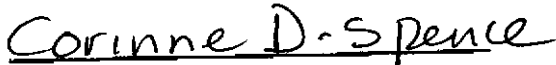
SEVERABILITY

- 1. SEVERABILITY. Invalidation of one or more of the provisions of these covenants by judgment or court order shall in no way effect any of the other provisions, which shall remain in full force and effect.

DATED this _____ day of March, 2006.



 Charles R. Spence



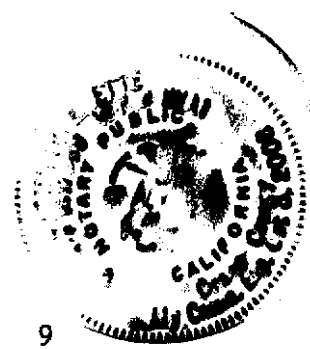
 Corinne D. Spence

STATE OF CALIFORNIA)
) ss
 County of)

On this ___ day of July, 2006, before me, the undersigned Notary Public, personally appeared Charles R. Spence and Corinne D. Spence, known to me to be the persons whose names are subscribed, to the within instrument and acknowledged to me they executed the same.



 Notary Public for California
 Commission Expires:



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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF IDAHO }
County of Boundary } SS.
Filed by: NorthStar Surrey
on 7-7-06 at 3:00
Glenda Poston
County Recorder lPeterson
By Deputy
Fee \$ 30.00 Org
Mail to N.S.

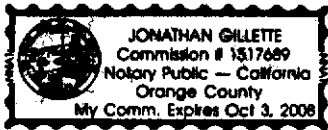
State of California

County of Orange

On 07/06/06 before me, Jonathan Gillette, Notary Public
Date Name and Title of Officer

personally appeared ***Charles R. Spence, Corinne D. Spence***
Name of Signer

~~personally known to me~~(or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

[Handwritten Signature]

OPTIONAL

Description of Attached Document

Title or Type of Document: Stmt Of Protective Covenants, Conditions & Restrict
Document Date: July 05, 2006 #of Pages 10
Signer(s) Other Than Named Above: None-----

